

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18767 of 2020**

Arising Out of PS. Case No.-303 Year-2019 Thana- MIRGANJ District- Gopalganj

SHEIKH MUNNA @ SHEIKH SAJID Son of Mohammad Anis Noor @
Sheikh Anis @ Md. Anis Resident of Village- Fatehpur, P.S.- Mirganj,
District- Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Binay Kant Mani Tripathi, Adv.
For the Opposite Party/s	:	Mr.Akhileshwar Dayal, APP
For the Informant	:	Mr. Pankaj Kumar Dubey, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 09-09-2020 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP in absence of Mr.Surendra
Kumar, APP.

Petitioner in the present case is seeking pre-arrest bail
in connection with Mirganj P.S. Case No.303/2019 registered
for the offence under Sections 341, 323, 307, 325, 504, 34 and
506 of the Indian Penal Code.

It is alleged against the petitioner that he had abused
the informant and assaulted him by an iron rod causing fracture
injury in the left hand of the informant. Co-accused had
assaulted the informant by hockey stick.

Learned counsel for the petitioner submits that the



petitioner is innocent and he has been made accused in a wholly concocted case. It is submitted that although in paragraph '3' of the application a statement has been made that the petitioner is having one criminal antecedent but now it has been submitted by learned counsel for the petitioner that the said criminal antecedent is against the brother of the petitioner and not against this petitioner. It is, thus, submitted that the provisional bail granted to the petitioner vide order dated 16.07.2020 be confirmed.

On the other hand, learned APP for the State and learned counsel representing the informant have jointly opposed the prayer for anticipatory bail of the petitioner. It is submitted that on 16.07.2020 for purpose of bail learned counsel for the petitioner has submitted that the injury report of the informant is fabricated and it was argued that the victim/informant was referred to a government hospital but instead the informant went to a private hospital and obtained the injury report. It is pointed out that now from the case diary it will appear that the petitioner was initially treated in the Sadar hospital, Hathua and the medical officer at Sadar hospital has noticed two injuries, the first one is swelling and tenderness of left arm and second was abrasion ½"x ¼" over face below right eye. Regarding injury



no.1 X-ray was advised which was done and X-ray report shows fracture of left humerus, hence injury no.1 has been found to be grievous in nature. It is submitted that the specific allegation of causing these two injuries are against this petitioner.

Pointing out to the materials in the case diary particularly the statements of the witnesses in paragraphs 8, 15 and 16 learned counsel submits that the witnesses have supported the informant's case and in fact it is stated that the petitioner and his brother are hardheaded person and as the father of the informant was being pressurized by both the brothers to withdraw the case and he was not agreeing, the present assault had taken place. They do not take care of even the police station.

On these grounds, it is submitted that the informant who has been brutally assaulted and he had to undergo surgical procedure of this hand at Lucknow has made specific allegation against the petitioner, hence the privilege of anticipatory bail be not allowed to the petitioner.

Having regard to the facts and circumstances of the case, the specific allegation against this petitioner is of causing assault on the vital part of the body i.e. on facial region and then causing grievous injury of fracture on his left arm and then



the statement of the witnesses in the case diary who have also stated against the conduct of the petitioner and that the present occurrence has taken place because the father of the informant was not withdrawing the earlier case, in the totality of the circumstances, this Court finds that the ground on which provisional bail was granted on the submission of learned counsel for the petitioner fails against the materials in the case diary.

In result, this Court is not inclined to confirm the provisional bail. The prayer for anticipatory bail is, thus, refused.

This application is dismissed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

