

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25866 of 2021

Arising Out of PS. Case No.-121 Year-2020 Thana- JOKIHAT District- Araria

Munna, aged about 41 years, male, son of Subhan, resident of village- Taran,
Kamat Tola, Ward No. 01, P.S. Jokihat, District- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 14-06-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 10.06.2021, which was allowed.

3. Heard Mr. Nafisuzzoha, learned counsel for the petitioner and Mr. Lakshmi Kant Sharma, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Jokihat PS Case No. 121 of 2020 dated 20.04.2020, instituted under Sections 147, 149, 341, 323, 324, 353, 307, 188, 269, 270, 427, 504, 506 of the Indian Penal Code; 3/4 of the Prevention of Damage to Public Property Act, 1984 and 51 of



the Disaster Management Act, 2005.

5. The allegation against the petitioner is that when the police went to enforce the lockdown with regard to opening of shops, he along with 36 other named and 100-150 unknown persons, had objected and had surrounded the police party and had also thrown brick-bats and specifically against co-accused Munna @ Mogis son of Mushtaque is that he had given *dabiya* blow on the Chowkidar, Jitendra Manjhi, which caused serious injury below his left eye and he had also repeated the blow leading to bleeding injury on his left hand.

6. Learned counsel for the petitioner submitted that the allegation is against 37 named persons, including the petitioner and 100-150 unknown. It was submitted that identically situated seven persons including Nasim, Masood @ Masood Alam, Naushad @ Naushad Alam and Salauddin have been granted anticipatory bail by the same Court below by order dated 03.12.2020 whereas the prayer of the petitioner has been rejected only on the ground that he was the person who had assaulted the Chowkidar, which is an error of record, as would be clear from the FIR itself and the parentage, as both the petitioner and other co-accused Munna are two different persons and the allegation of assault on the Chowkidar by *dabia* is



against other co-accused Munna and not the petitioner Munna. Learned counsel submitted that the petitioner has no criminal antecedent and further that no injury has been brought on record of any other official, except for the Chowkidar and that blow is attributed to another co-accused and not the petitioner.

7. Learned APP submitted that the petitioner along with others had obstructed the officials from performing their duties, especially during the lockdown. However, it was not controverted that the persons who have been granted anticipatory bail by the same Court below are identically situated and that the petitioner is not the accused Munna, who had assaulted the Chowkidar, which has been confused by the Court below while rejecting his prayer for anticipatory bail.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Araria in Jokihat PS Case No. 121 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of



the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond and give undertaking with regard to good behaviour of the petitioner, and (iii) that the petitioner shall cooperate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or non-cooperation shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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