

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8705 of 2023

Arising Out of PS. Case No.-82 Year-2020 Thana- BARSOI District- Katihar

MUZAMMIL SON OF ABDUL SUKUR R/O VILLAGE- SINGHI GAON,
P.S.- BARSOI, DISTRICT- KATIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate. Mr. Md. Musowir, Advocate. Mr. Kumar Rajdeep, Advocate.
For the State	:	Mr. Ramchandra Sahni, APP
For the Informant	:	Mr. Ajit Kumar Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 19-04-2023 Heard Mr. N.K. Agrawal, learned senior counsel for the petitioner, Mr. Ramchandra Sahni, learned Additional Public Prosecutor appearing for the State and Mr. Ajit Kumar Singh, learned counsel for the informant.

Petitioner apprehends his arrest in connection with Barsoi P.S. Case No. 82 of 2020 dated 19.5.2020 registered for the offences punishable under Sections 341, 323, 504, 324, 379 and 34 of the Indian Penal Code.

This is second anticipatory bail application of the petitioner inasmuch as earlier the anticipatory bail application of the petitioner was dismissed as withdrawn vide order dated 6.1.2021 passed Cr. Misc. 31471 of 2020.



Learned senior counsel for the petitioner submits that due to the subsequent event which has taken place, the second anticipatory bail has been preferred by the petitioner inasmuch as after the dismissal of the bail application by this Court, the Police submitted final form exonerating the petitioner from the charges on 8.5.2021 and other accused persons were sent for trial. The learned Magistrate however, differed with the Police report, took cognizance against the petitioner vide its order dated 10.5.2022 (Annexure-4).

In the changed circumstances, the petitioner again moved anticipatory bail application before the learned Sessions Judge, which got rejected vide order dated 5.12.2022 and, accordingly, the petitioner has filed the present anticipatory bail application after being aggrieved by the order passed by the learned Sessions Judge.

Referring to the First Information Report, learned senior counsel for the petitioner submits that there is allegation against the petitioner that he assaulted the informant by means of *Dabia* (a sharp cutting weapon) causing injury to him, but, during course of investigation, the independent witnesses have not supported the prosecution story and their statements have been recorded in paragraphs 57, 58, 59 and 60 of the case diary.



He next submits that based upon the material collected by the Police during course of investigation, the final form exonerating the petitioner was filed by the Police.

Referring to the injury report discussed in the case diary, learned senior counsel for the petitioner submits that the injury near the forehead is not very serious in nature having the size of 3" x 1/3" x 1/4" which has been caused due to the fact that the informant fell upon Tin during the course of scuffle between the two groups as stated by the independent witnesses during course of investigation. He also submits that the injury caused to the informant is not covered by the kind of grievous injuries defined under Section 320 of the Indian Penal Code. The petitioner has got no criminal antecedents and he has falsely been implicated in this case due to the village politics and rivalry.

On the other hand, learned counsel for the informant vehemently opposes the prayer for anticipatory bail and submits that while dismissing the earlier anticipatory bail application as withdrawn, this Court had given liberty to the petitioner to seek regular bail but instead of surrendering himself before the trial court, the petitioner absconded for a long time and now has filed the second anticipatory bail application. Referring to



paragraphs-19 and 20 of the case diary it will transpire that other independent witnesses have supported the prosecution case. The informant has also supported his version in his re-statement.

I have heard learned counsel for the parties and have perused the material on record.

From perusal of the final form, it appears that the Police after investigation has exonerated the petitioner based upon the statement of the witnesses recorded during course of investigation, though, the learned Magistrate has differed with the Police report and has taken cognizance. I also find that some of the witnesses whose statements have been recorded in paragraphs-57 to 60 of the case diary, have categorically stated that the injury has been caused due to scuffle between two groups and the nature of the injury discussed by the Doctor, is not covered under the definition of grievous injury mentioned in Section 320 of the Indian Penal Code. Accordingly, I am inclined to grant anticipatory bail to the petitioner.

Let the petitioner in the event of arrest or surrender before the learned court below within four weeks from today be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount



each to the satisfaction of learned Additional Chief Judicial Magistrate, 1st Class, Katihar, Distt. Katihar, in connection with Barsoi P.S. Case No. 82 of 2020, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J)

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