

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37898 of 2023

Arising Out of PS. Case No.-65 Year-2023 Thana- AMDABAD District- Katihar

SK. MUNIF Wife of Sk. Ezul R/o - Navratanpur, P.S. - Amdabad, Distt. -
Katihar.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Sanjeev Kumar Singh, Advocate
For the State	:	Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
ORAL ORDER

2 03-08-2023 This application is filed under Section 438 of Code of Criminal Procedure, 1973 for enlarging the applicant on anticipatory bail in connection with Amdabad P.S. Case No.65 of 2023, registered for the offences punishable under Sections 341, 323, 324, 307, 379, 504, 506 and 34 of the Indian Penal Code.

2. Heard Mr. Sanjeev Kumar Singh, learned advocate for the applicant and Mr. Rajendra Singh, learned APP for respondent-State.

3. Learned counsel for the applicant referred the allegations levelled against the applicant in the FIR in question and thereafter referred the medical injury certificate of the injured, copy of which is placed on record at page 13 of the compilation. After referring to the same, it is contended that



though the concerned doctor has stated in the said report that injury no.1 is grievous, it is revealed from the said report that it was only headache and vomiting. It is further submitted that so far as injuries no.2 and 3 are concerned, they are simple in nature. Learned counsel, therefore, urged that the case of the applicant be considered. At this stage, it is further submitted that in the incident in question, the present applicant and others also sustained injuries and, therefore, the applicant tried to lodge the FIR against the present original first informant and others but the said FIR was not registered. Applicant side has, therefore, filed the private complaint being Complaint Case No.58 of 2023 before the concerned court. Thus, learned counsel submitted that it is a case of cross FIR.

4. On the other hand, learned APP has opposed this application. Learned APP has referred the allegations levelled against the applicant in the FIR in question and submitted that as per the allegations levelled in the FIR, the applicant gave stick blow on the head of injured, Roshani Khatoon. It is submitted that thus the applicant gave blow with stick on the vital part of the body in which, even as per the medical certificate issued by the concerned doctor, the injury is grievous in nature. He, therefore, urged that the present application may



not be entertained.

5. Having heard the learned advocates for the parties and having gone through the materials placed on record, it would emerge that specific allegations are levelled against the applicant and it is alleged that the applicant gave stick blow on the head of the injured, Roshani Khatoon. From the injury certificate issued by the doctor, it is revealed that injury is grievous in nature though it is observed that injuries no.2 and 3 are simple in nature.

6. Looking to the assault made by the applicant on the vital part of the body of the injured, prosecution has made out a *prima facie* case against the applicant. Though it is contended that the applicant side has also filed private complaint against the present informant and others, fact remains that in the said incident, Roshani Khatoon sustained injury on her head.

7. Thus, looking to the facts and circumstances of the present case, I am not inclined to exercise discretion in favour of the present applicant.

8. This application is, accordingly, dismissed.

(Vipul M. Pancholi, J.)

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