

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59475 of 2023

Arising Out of PS. Case No.-338 Year-2020 Thana- KAUWAKOL District- Nawada

=====

MOHAMMAD RASHID ALAM @ MD. RASHID MIYAN @ RASHID MIYAN SON OF MD. KHURSHID ALAM R/O VILLAGE- MAHUDAR (MAHURAR), PS- KAWAKOL, DIST- NAWADA, PRESENTLY RESIDING AT 16-B, KOTLA VILLAGE, GURJAR BHAWAN, MAYUR VIHAR PHASE-1, EAST DELHI, DELHI- 110091

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Diwakar, Advocate

For the Opposite Party/s : Mr. Arun Kumar Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 05-10-2023 Heard learned Counsel for the petitioner and learned

APP for the State.

2. The petitioner apprehends his arrest in connection with Kawakol P.S. Case No. 338 of 2020 for the offence registered under sections 341, 323, 307 and 34 of the Indian Penal Code lodged on 02.10.2020 by the informant, Md. Rafique Alam.

3. As per the prosecution story, the informant stated that he has entered into an agreement of partition between his uncle, Md Khurshid Alam S/o Late Safdar Miyan in which Md Khurshid Alam was forcefully constructing a hand pump and upon resisting, they attacked him and his brother with an



intention to kill. As a result, his brother sustained head fracture/ injury. The Informant further stated that two sons of Md. Khurshid Alam namely Rashid Miyan and Imran Alam also assaulted them whereas Rashid Miyan assaulted him on his head and left hand while Imran Alam carrying 'sword' in his hand attacked his brother on his head and Md Khurshid Alam also assaulted. Accordingly, the FIR.

4. Learned Counsel for the petitioner submits that there is admittedly land dispute between the parties, case and counter case has been lodged, the petitioner's case being earlier one, the petitioner do not have criminal antecedent.

5. The last submission is that so far as the injury part is concerned, as per the observation of the learned Single Judge, the opinion was kept reserved and in that background and thus there is no opinion that it was grievous.

6. Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail stating that allegation of assault amongst against this petitioner is there.

7. Taking into account the aforesaid facts that there is admittedly case and counter case, the petitioner's case being an earlier one the petitioner do not have criminal antecedent and the opinion has been reserved in the matter, this Court is



inclined to extend him privilege of anticipatory bai.

8. Let the petitioner in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned A.C.J.M. IV, Nawada in connection with Kawakol P.S. Case No. 338 of 2020 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for next six months to mark attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for



cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

9. With the aforesaid observations, the anticipatory bail application stands allowed.

(Rajiv Roy, J)

Neha/-

U		T	
---	--	---	--

