

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65958 of 2023

Arising Out of PS. Case No.-197 Year-2022 Thana- SAKRI District- Madhubani

MD. GAFFAR @ MD. KURBAN @ KURBAN SON OF MD. MAKSOOD
@ MAKSOOD RESIDENT OF VILLAGE DAHAURA, P.S
MANIGACHHI, DISTRICT DARBHANGA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Advocate
For the Opposite Party/s : Mr. Raj Kishor Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 27-02-2024 Heard learned Counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest in connection with Sakri P.S. Case No. 197 of 2022 corresponding to G.R. No. 1619 of 2022 for the offence registered under sections 341, 504, 323, 324, 325, 307 and 34 of the Indian Penal Code lodged on 02.10.2022 by the informant, Sajda Khatoon.

3. As per the prosecution story, the informant, Sajda Khatoon alleged that she was visiting the house of Sayara Khatoon on the occasion of 'Milad' and till 11:30 P.M., the D.J. Programme was on, as her husband objected, the accused firstly abused and then started assaulting. When Md. Mukhtar went to save them and husband of the informant pushed Kamrul Haque, he brought iron rod from his house and gave blow on the head of her husband, causing injury to him. As Md. Mukhtar tried to snatch iron rod, he was also given iron rod blow on his head. So



far as the allegation against other accused persons including this petitioner is of assaulting by '*fist*'. Accordingly, the FIR.

4. Learned Counsel for the petitioner submits that a bare perusal of the FIR would show that it is Kamrul who brought iron rod from the house and firstly assaulted on the head of the informant and when Md. Mukhtar tried to snatch the said iron rod, he too was assaulted on the head so according to the learned Counsel for the petitioner, Mr. Subhash Kumar Jha, it is Kamrul who is the main culprit in this FIR. So far as the petitioner is concerned, an omnibus allegation is against him and he do not have criminal antecedent. He further submits that Kamrul, against whom there is specific allegation has been granted bail in Cr. Misc. No. 45784 of 2023 on 24.08.2023 by a co-ordinate bench (Annexure 3 to the petition).

5. Learned APP for the State, on the other hand, opposes the prayer for anticipatory bail stating that all the accused assaulted the informant and her family members though the learned APP concedes that specific allegation is against Kamrul Haque. Learned APP further submits it is surprising that Kamrul Haq @ Kamrul Haque has been granted anticipatory bail.

6. A perusal of the order dated 24.08.2023 relating to



Kamrul Haque shows that learned Counsel appearing in that case (Mr. Subhash Kumar Jha who is appearing in the present case too) made submission that there is general and omnibus allegation against Kamrul Haq @ Kamrul Haque and on that ground, the anticipatory bail was allowed. Thus from the record, it appears that there is specific allegation against Kamrul Haq @ Kamrul Haque was suppressed and it was submitted that omnibus allegation is against him an on that ground the relief was procured.

7. Be that as it may, since this Court is hearing the anticipatory bail application of the petitioner, Md. Gaffar against whom there is omnibus allegation and he do not have criminal antecedent, this Court is inclined to extend him privilege of anticipatory bail.

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 C.J.M., Madhubani in connection with Sakri P.S. Case No. 197 of 2022 corresponding to G.R. No. 1619 of 2022 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.

(Rajiv Roy, J)

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