

ABA 1724 of 2023

In the Court of Addl. Sessions Judge IV, Munger,

ABA 1724 of 2023

Bibak Kumar Vs. State

Muffasil P.S. case no. 285 of 2023

06.02.2024 Anticipatory Bail application filed on behalf of the petitioner namely 1. **Bibak Kumar** is put up for hearing today. Copy of this petition has already been served to the learned Addl.P.P. for the State.

Heard the learned counsel for the petitioner Sri Nirbhay Kumar as well as learned Addl.P.P. for the State.

It is submitted on behalf of the learned Advocate for the petitioner that **earlier no other regular or anticipatory bail on behalf of the petitioner has been filed either before this learned court or Honorable High Court Patna or any Court. There is no criminal antecedent against the petitioner.** It is further submitted on behalf of the learned counsel for the petitioner that the petitioner is quite innocent and he has not committed any offence as alleged in the FIR and he has been falsely implicated due to village politics. From the facts alleged in the FIR no case u/s 307 IPC can be made out against the petitioner. The petitioner is daily wages labour and farmer. As per FIR no case of Mar-pit and assault took place. The other co accused person has been granted Anticipatory Bail by this court vide ABA No. 1410/2023 dt. 23.09.2023 and the case of petitioner is of similar footing. Therefore, it is prayed to grant the petitioner the benefit of anticipatory bail.

Per contra, learned Addl.P.P. has opposed the anticipatory bail prayer of the petitioner.

Having heard both the sides and gone through the case record, the present case has been instituted on the basis of written report of Informant

(B)
Continue
06.02.2024

Abhishek Kumar. As per FIR on 11.08.23 at 10.00 O clock morning the Informant has gone to his field to bring grass. Vivek Kumar(Raja) (petitioner) and Raoshan Kumar came and started abusing. When the informant protested they assaulted him by rod but the people present there, saved him. Raushan Kumar assaulted the Informant by rod on his head but he saved himself by his hand and due to that his hand became fractured. Accused Vivek also assaulted by rod at the elbow of the Informant. FIR has been instituted u/s 341/323/325/504/506/34 of the IPC, petitioner is named accused of this case.

Original trial court record and case diary received. From perusal of the case diary I find that injury report of the Informant/Injured- Abhishek Kumar is available, as per injury report he has sustained *injury no. 1, abrasion over left elbow- ½”x ½” bright red in colour. 2. swelling around the left elbow. AS per X-ray report shows no bone injury is found, nature of injury is simple cause by hard and blunt substance.* I further find from the record that in the case diary criminal history report of petitioner is not available but as per para 3 of the bail petition the petitioner has clean antecedent. It also appears that there is land dispute in between the parties. I further find that as per FIR the allegation of assaulting by Rod on the head of the informant is specific against the co accused Raushan Kumar, and Raushan Kumar has been granted Anticipatory Bail by this court vide ABA No. 1410/2023 dt. 23.09.2023 and the petitioner deserve parity.

Considering the above facts and circumstances of the case, I am inclined to grant the petitioner the privilege of anticipatory bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each in the event of his arrest by the police or surrender before the court within a period of 15 days of the receipt of this order and subject to condition as laid down under section 438 (2) of the Cr.P.C. With additional

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Continue
06.02.2024

conditions that the **petitioner shall file undertaking that he will co-operate in investigation as well as in trial.**

If in future it is found that petitioner has knowingly concealed his criminal antecedent in that case the prosecution side will be at liberty to initiate a proceeding for cancellation of his bail.

Accordingly, anticipatory bail application of the petitioner namely **Bibak Kumar** stands **allowed.**

Addl. Sessions Judge IV th, Munger,

06.02.2024

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Copy forwarded to the Court of **Ld.**

Munger

in connection with **Muffasil P.S. Case No. 285 of 2023**

Addl. Sessions Judge IV th,Munger,

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