

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 44962 of 2016

Arising Out of PS.Case No. -368 Year- 2016 Thana -KOTWALI District- PATNA

=====

Shiv Ram Krishna Gupta @ Krishna Jee, Son of Late Sita Ram Gupta, resident of
Krishna Bhawan, Hotel Rajasthan Gai, Frazer Road, P.S.- Kotwali, District- Patna.
.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur & Mr. Ravi Ranjan, Advocates
For the State	:	Mr. Jitendra Kumar Singh, A.P.P.
For the Informant	:	Mr. Ashish Giri, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 18-10-2016

Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the informant, who has
suo motu appeared.

The petitioner apprehends arrest in connection with
Kotwali P.S. Case No. 368 of 2016 dated 05.08.2016 instituted under
Section 354 of the Indian Penal Code.

The allegation against the petitioner is that in a shop
belonging to the mother-in-law of the informant, and with regard to
which there was an order of *status quo* of the civil Court, when the
informant along with her mother-in-law went on 05.08.2016, at the
instance of the petitioner, who is said to be an employee of the

mother-in-law of the informant in the shop, instructed one *Pahalwan*, whereafter the said person, by putting hand on the back of the informant tried to push her.

Learned counsel for the petitioner submits that for more than three decades, he was an employee in the shop which admittedly was on lease in favour of the mother-in-law of the informant, but the lease was not renewed after 31.10.2015. It is submitted that thereafter, since the landlord was not agreeable to renew the lease, the petitioner got the lease of the shop in favour of his daughter-in-law, Sonia Kumari, which was known to the informant side. It is submitted that on the basis of the said lease, in favour of his daughter-in-law, the petitioner was running the shop and in January, 2016 also a case was instituted against him under various Sections including 379 of the Indian Penal Code, which was false and only to exert pressure on him to vacate the premises. It is submitted that in the title suit filed in the civil Court, the mother-in-law of the informant is the plaintiff and the landlord is the defendant but neither the petitioner nor his daughter-in-law have been made party and there is order only of *status quo*, which would not mean that the informant is entitled to be in possession of the shop in question. It is submitted that even as per the allegation, it was *Pahalwan* who had actually touched and tried to push the informant and, thus, there is no

overt act directly attributed to the petitioner. Learned counsel submits that the present case is clearly in continuation of the earlier case by which the informant and her mother-in-law are trying to somehow create a situation where the petitioner vacates the shop.

Learned A.P.P. and learned counsel for the informant oppose the prayer for anticipatory bail. It is submitted that the act of the petitioner, where admittedly he has been working as an employee of the same shop for over three decades and suddenly getting the lease in favour of his daughter-in-law, shows that there is greed on his part and that he has not live up to the trust shown in him. It is submitted that even earlier the case was instituted against the petitioner alleging breaking the lock of the shop, entering into the premises and taking away the goods lying in the shop. Learned counsel submit that the person who had put his hands on the back of the informant, who is a lady, and also tried to push her away, was at the instance of the petitioner, for the said person has no connection either with the shop or with the informant, and her mother-in-law. He submits that from the written statement filed by the informant, ingredients under Sections 354, 509 read with Section 34 of the Indian Penal Code are clearly made out and the petitioner does not deserve the privilege of anticipatory bail as he also has criminal antecedent.

Having considered the rival contentions, the Court is not inclined to enlarge the petitioner on anticipatory bail.

Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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