

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4394 of 2016

Arising Out of PS.Case No. -19 Year- 2014 Thana -RIGA District- SITAMARHI

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1. ABDUL KALAM MANSOORI @ MD. KALAM MANSURI Son of
Late Butai Mansoori resident of village - Kalikapur Piprahi, P.S. Riga,
District - Sitamarhi

... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa

For the Opposite Party/s : Mr. Ashok Kr.Singh No.1(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 17-02-2016

Heard learned counsel for the petitioner and

learned A.P.P. for the State. Learned counsel for the informant is
also present.

The petitioner is apprehending arrest in
connection with Riga P.S. Case No. 19 of 2014 registered under
sections 341, 307/34 of the Indian Penal Code. Later on Section
302 of the Indian Penal Code was also added.

Case diary in the present case was called for
which has since been received.

It is submitted on behalf of the petitioner that
though initially in the first information report there is direct
allegation against the petitioner of having lit the fire which caused
burn to the victim girl Ruby Khatoon, yet in the statement made
by the victim girl herself the story stands otherwise stated. He
further submits that though the mother had stated that Ruby

Khatoon was going inside the house but the victim girl herself has stated on the very day of the occurrence that she was reading inside the room whereupon some persons including the petitioner entered into the room and the petitioner tried to put his hands over her mouth and it was one Munna Mansoori who had lit the fire after sprinkling K. Oil.

Learned counsel for the State after perusal of the case diary submits that the statement of the victim girl indeed indicates that she was reading inside the room and that her two brothers were sleeping in the adjacent room and they had come only after she raised halla. Learned counsel for the State further submits that in the statement of the victim girl she has also admitted that her mother was not there and she was sitting outside the house besides the door on account of cold condition. After due investigation the police submitted final form in the case holding that the present case has been lodged by way of wrecking vengeance on the petitioner's side by the informant as there has been series of litigations between the parties in which the petitioner had also sent the persons of the informant's side to jail.

Learned counsel for the informant has seriously contested the matter and submitted that taking into consideration the statement of the victim girl as well as the statements of the mother and brothers, it is evident that the victim girl had been set

on fire by the petitioner.

However, after consideration of all the facts and circumstances of the case and after referring to several paragraphs of the case diary, it appears that the informant is actually not an eye witness to the occurrence as the story narrated by her in the first information report does not seem to be probable as the victim girl herself has narrated altogether a different story.

It is in view of such material evidence surfaced into the case diary, the Court feels that there is flout in the prosecution story which entitles the petitioner to the privilege of anticipatory bail. As such, let the petitioner above named, in the event of arrest or surrender in the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Sitamarhi in connection with Riga P.S. Case No. 19 of 2014 subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure, 1973.

(Anjana Mishra, J)

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