

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53440 of 2017

Arising Out of PS.Case No. -89 Year- 2016 Thana -DERNI District- SARAN

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Vivek Tiwary, S/o Jai Prakash Tiwary, resident of village - Khajauta, P.S. -
Derni, District - Saran.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vagisha Pragya Vacaknavi
For the informant : Mr. Satya Prakash, Advocate.
For the Opposite Party/s : Mr. Sri Nawal Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 05-12-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and the State.

The petitioner apprehends his arrest in **Derni P.S.**
Case No. 89 of 2016 instituted for the offence under Sections 341,
323, 324, 427 and 436/34 of the Indian Penal Code.

In the instant case there is allegation against this
petitioner that he fired from pistol but misfire took place and no
injury was caused to any one. It is alleged that this petitioner set
fire in southern side of the thatched (Phoos) house of the
informant. The I.O. during investigation has found the aforesaid
allegation false. The Supervising authority i.e. Dy. S.P. has found
the case true under Section 436 of the Indian Penal Code.

Learned counsel for the petitioner has submitted that



this case has been filed as a counter blast of Derni P.S. Case No. 88 of 2016 lodged by brother of this petitioner Prasant Kumar Tiwari against the informant and others.

Learned A.P.P. has appeared and submitted that in paragraphs-43, 44 and 45 of the case diary it is stated that petitioner has set fire in the *palani* of the informant. The police in paragraph-9 of the case diary has given description about place of occurrence in which it is mentioned that one hut was found burnt by the side of the disputed land.

As such, from paragraph-9 it appears that it was not the dwelling house of the informant.

Considering the facts and circumstances of the case, prayer for anticipatory bail of the petitioner is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today, in connection with **Derni P.S. Case No. 89 of 2016**, he shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of **learned Additional Chief Judicial Magistrate-VII, Chapra**, subject to the conditions as laid down under Section 438 (2) Cr. P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall



cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioner and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Sanjay Priya, J)

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