

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 7758 of 2019

Arising Out of PS. Case No.-342 Year-2016 Thana- Jokihat District- Araria

Md. Shahabuddin, Son of Late Md. Abdul Rahim, aged about 55 years, Male,
R/o Village- Karhobna, P.S.- Jokihat, District – Araria.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Kundan Kumar Singh

For the Opposite Party/s : Mr. Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3. 04-04-2019 Heard Sri Kundan Kumar Singh , learned counsel for
the petitioner and learned Addl. Public Prosecutor.

The sole petitioner, who was named accused in the
F.I.R., which was lodged long back on 21-10-2016, vide Jokihat
P.S. Case No. 342 of 2016 registered for the offence under
Sections 341, 323, 324, 307, 506, 34 of the Indian Penal Code,
has prayed for grant of bail in the event of his arrest or
surrender.

It was submitted by learned counsel for the petitioner
that there was case and counter case in between the parties.
Learned counsel for the petitioner has drawn my attention to
Annexure-2 to the petition i.e. copy of F.I.R., vide Jokihat P.S.
Case No. 344 of 2016, which was instituted from the
petitioner's side against informant and his family members. It



has also been argued that at least four accused persons in the present case have been granted anticipatory bail on 17-12-2018, vide Cr. Misc. No. 68911 of 2018. On aforesaid ground, a prayer has been made for granting anticipatory bail.

First of all, I may notice Annexure-2 to the petition i.e. a written report with thumb impression of one Bibi Afsana, in which, it was alleged that occurrence had taken place on 09-09-2016, the date, on which occurrence had taken place in the present case. The said F.I.R. was lodged on 24-10-2016, whereas in the present case, F.I.R. has been lodged on 21-10-2016 and *fardbeyan* was recorded in Rajendra Surgical Block, P.M.C.H., Patna in injured condition. Accordingly, no benefit can be granted on the ground that there was so called counter case from the petitioner's side. Besides this, in the present F.I.R., fact has been disclosed that in the year 2008 also, a case was instituted against petitioner and others from the informant side and informant was being pressurized in the said case and this was the reason for committing crime in the present case. Moreover on perusal of paragraph-3 of the petition, it is evident that besides the present case, petitioner is accused in altogether five other cases of serious offences, whereas, it was submitted by learned counsel for the petitioner that all the five



cases were instituted from the informant side.

The Court is of the opinion that provision under Section 438 of the Cr.P.C. is not meant for such person, who is having criminal antecedent.

The prayer for anticipatory bail stands dismissed.

(Rakesh Kumar, J.)

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