

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8054 of 2020

Arising Out of PS. Case No.-526 Year-2019 Thana- SAHARSA District- Saharsa

ASHOK SHARMA Son of Late Mantu Sharma Resident of Village - Batraha
Ward No. 25, P.S. - and District - Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Subesh Sharma

For the Opposite Party/s : Mr.Tapeshwar Sharma

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 22-06-2020 The present case was heard on 19.6.2020 at length and today, it has been placed before this Court for orders.

This is an application for grant of anticipatory bail in connection with Saharsa Sadar P.S. Case No. 526 of 2019 registered for the offence punishable under Sections 341, 323, 504, 427, 436, 34 of the Indian Penal Code.

The case of the prosecution in brief is that on 9.6.2019 at about 8:00 PM., the petitioner herein along with other accused persons, armed with various weapons, had come to the house of the informant, entered the house of the informant and damaged the articles present inside the house. Thereafter, the co-accused person, namely, Prem Kumar is alleged to have caught hold of the hair of the informant and dragged her out of the house, whereafter the co-accused person, namely Sonu Kumar, had sprinkled petrol and lit the fire on account of which TV, Freeze,



grocery etc. were burnt causing a loss of Rs. 5,00,000/- to the informant.

The learned counsel for the petitioner has submitted that the petitioner is innocent, he has been falsely implicated in the present case and he is having a fair antecedent inasmuch as he is an accused only in one other case. It is further submitted that as far as the petitioner is concerned, there is no allegation of any sort of overt act as against him. It is also submitted that the petitioner has got no role to play and has only been stated to be a member of the mob. Reference has been made to the investigation conducted by the police to submit that as far as the petitioner is concerned, he is having no role in the alleged occurrence and the other two named co-accused persons are involved in commission of overt act. It is further submitted that the present case arises out of case and counter case inasmuch as a case bearing Saharsa Sadar P.S. Case No. 512 of 2019 has been filed by the wife of the petitioner on 6.6.2019 and only thereafter, the present case has been filed on 9.6.2019 though the occurrence is dated 6.6.2019, according to the petitioner herein.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.



Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the material available in the case diary, it is apparent that the witnesses examined by the police have also stated regarding the complicity of the co-accused persons, namely, Sonu Kumar and Prem Kumar as also unknown accused persons, however, as far as the petitioner is concerned, there is no allegation of any overt act and moreover, the present case arises out of case and counter case, hence, I deem it fit and proper to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the petitioner is directed to be enlarged on anticipatory bail, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Saharsa in connection with Saharsa Sadar P.S.Case No. 526 of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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