

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20502 of 2020

Arising Out of PS. Case No.-124 Year-2018 Thana- GAMAHARIYA District- Madhepura

PINTU SHARMA Son of Chhedi Sharma Resident of Village - Chikni
Khargh (Khar), P.S.- Gamhariya, Dist.- Madhepura.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Amarnath Jha

For the Opposite Party/s : Mr.Ajay Kumar Jha

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 13-07-2020 The Court proceeding has been conducted
through virtual mode.

Since the physical court proceeding is non-functional due to the present pandemic COVID-19, the matter is listed with defects.

Learned counsel for the petitioner undertakes to remove the defects within three weeks of the resumption of the physical Court proceedings.

In case of non-removal of the defects within undertaken period, the office shall place the matter before the bench.

Heard learned counsel for the petitioner and learned counsel for the State.



The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 341, 323, 324, 325, 307, 354, 504, 506, 34 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the fardbeyan of Kiran Devi, recorded by S.I. Rajesh Kumar-II, SHO, Gamharia Police Station at PHC Gamharia Emergency Ward on 13.07.2018 at 7:00 P.M. is to the effect that on 09.07.2018 at about 12:00 A.M, co-accused Shyam Sharma @ Wakil entered into the house of the informant with ill motive and put down his hand on the breast of the informant and when the informant raised alarm, her sister-in-law came and thereafter co-accused Shyam Sharma @ Wakil escaped from the scene. The informant thereafter called for a panchayat and the panchayat permitted her to beat co-accused Shyam Sharma @ Wakil with slippers. It is further alleged that on 13.07.2018 at 5:00 P.M. when the



husband of the informant was taking rest in his courtyard, eleven F.I.R named accused persons and two unknown came variously armed and assaulted to the husband of the informant with sword, lathi, dabia and other sharp cutting weapon. It is alleged that co-accused Kundan Kumar, Shyam Sharma, Nandan and Pankaj resorted to fire on the husband of the informant which hit on his right leg and thereafter the accused persons escaped from the scene.

It is submitted by learned counsel for the petitioner that thrust of accusation is against Shyam Sharma @ Wakil and the specific accusation of firing is against co-accused Kundan Kumar, Shyam Sharma, Nandan and Pankaj but only one bullet injury has been found by the doctor. There is no specific overt act against the petitioner. The petitioner was not sent up for trial but differing with the final form, cognizance has been taken under Sections 341, 323, 324, 307, 354, 504, 506, 34 of the Indian Penal Code and process has



been issued against the petitioner. Moreover, co-accused Anil Sharma and Sanjay Sharma who were non-assailant have been granted bail vide Cr. Misc. No. 46973 of 2019 and Cr. Misc. No. 21534 of 2019 by Co-ordinate bench of this Court.

Learned counsel for the State submits that petitioner is named in the F.I.R and accusation is omnibus and general of making assault to the husband of the informant.

Considering the fact that accusation of firing is not against the petitioner, other similarly situated co-accused persons have been granted bail and petitioner was not sent up for trial but differing with the same, cognizance has been taken, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a period of three months on furnishing one surety to the satisfaction of learned Judicial Magistrate, 1st Class, Madhepura in connection



with Gamharia P.S. Case No. 124 of 2018, subject to the conditions as laid down under Section 438(2) Cr.P.C.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Madhepura in connection with Gamharia P.S. Case No. 124 of 2018 including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court



proceeding in physical mode will not resume in next
three months.

Accordingly the present application stands
disposed of.

(Dinesh Kumar Singh, J)

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