

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 77986 of 2019

Arising Out of PS Case No.-315 Year-2019 Thana- BARHARIYA District- Siwan

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Vijay Kumar Sharma @ Vijay Sharma, aged about 52 years, Male, Son of
Late Parabhansh Sharma, Resident of Village - Muhmadpur, P.S.- Barharia,
District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandeep Kumar, Advocate
For the State : Mr. Jharkhandi Upadhyay, APP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 25-08-2020

The matter has been heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Heard Mr. Sandeep Kumar, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Barharia PS Case No. 315 of 2019 dated 24.08.2019, instituted



under Sections 341, 323, 379, 324, 307, 504, 506/34 of the Indian Penal Code to which later on Section 302 of the Indian Penal Code was added.

4. The petitioner, along with five others, is accused of brutally assaulting the son of the informant and inflicting dagger blow on him and then snatching Rs. 5,000/- and gold chain worth Rs. 35,000/- from the pocket of the son of the informant, who was injured. Later on, the victim died during the course of treatment.

5. Learned counsel for the petitioner submitted that the FIR would indicate that the informant was not an eye witness of the occurrence. It was further submitted that against co-accused Devendar Sharma, there is specific allegation of inflicting dagger blow on the stomach and against co-accused Radhika Devi, of taking away Rs. 5,000/- and gold chain but against others, it is general and omnibus. It was submitted that the victim did not die due to the aforesaid assault and later on passed away because of septicaemia. It was further submitted that the son of the petitioner is running food business in the town of Siwan and lives there, being employed in Uttar Bihar Gramin Bank and, thus, the allegation of him being present in the village is false. It was submitted that the petitioner has no other criminal antecedent. Learned counsel submitted that even the subsequent version of the



informant in which she has given a clean chit to co-accused Rajesh Sharma, that he was not present or involved in the incident, clearly shows that even the allegation in the FIR itself is false. It was submitted that co-accused Rajesh Sharma has been granted anticipatory bail on 22.01.2020 by a co-ordinate Bench in Cr. Misc. No. 4052 of 2020.

6. Learned APP, from the case diary, submitted that the FIR is only a first statement to the police to start the investigation. It was submitted that the informant in her reinstatement has clearly stated that the petitioner had caught hold of the son of the informant and co-accused Devendar Sharma has inflicted knife blow. It was submitted that the co-accused Rajesh Sharma has been granted anticipatory bail by taking note of the fact that the informant herself in her further statement has categorically stated that he was not involved in the crime. Learned counsel submitted that the informant has not made any contradictory statement with regard to the petitioner and only by way of further clarification, which is quite justified and natural, she has given details of the incident with regard to the role and specific overt act of the petitioner.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant anticipatory bail to the petitioner.

8. Accordingly, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar/ Anand Kr.

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