

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38867 of 2020

Arising Out of PS. Case No.-187 Year-2020 Thana- AMARPUR District- Banka

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Brajesh Sharma @ Brajesh Kumar Sharma, Son of Manoj Sharma, Resident of Village - Koindah, Police Station - Amarpur, District – Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Praveen Kumar
For the Informant	:	Mr. Pankaj Kumar
For the State	:	Mr. Ajit Kumar

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 27-10-2021 Heard learned counsel Mr. Praveen Kumar, appearing on behalf of the petitioner, learned counsel Mr. Pankaj Kumar, appearing on behalf of the informant and learned APP Mr. Ajit Kumar, appearing on behalf of the State.

The present petition under Section 438 of the Cr.P.C. is for anticipatory bail to the petitioner in connection with Amarpur P.S. Case No. 187 of 2020 for offence punishable under Sections 147, 148, 323, 325, 307, 354, 379, 504, 506 and subsequently, after death of one Bimla Devi Section 302 of the Indian Penal Code was added.

Briefly stated allegations in the F.I.R are that Brajesh Sharma (petitioner) started throwing water in the angan (courtyard) of the informant and due to this hot talk took place



between informant and the said Brajesh Sharma (petitioner). Thereafter, altogether 10 accused persons named in the F.I.R started abusing the informant and upon protest, all the accused persons came variously armed with lathi, danda and rod and started assaulting upon the informant. There is specific allegation against the petitioner that when Bimla Devi, mother of the informant came to rescue then Brajesh Sharma assaulted by means of lathi on the leg of the mother of the informant, resulting into fracture and ransacked the house of the informant and took Rs. 10,000/- by breaking the box.

Learned counsel appearing on behalf of the petitioner submits that the informant and the petitioner are next door neighbour and belong to the common ancestor. The dispute relates to dirty water and erection of wall without any premeditated intention to kill. Learned counsel for the petitioner further submits that the allegation against the petitioner is ambiguous and the injury report suggests that informant received one lance rated wound on left side of forehead which is simple in nature. Learned counsel for the petitioner further submits that counter case vide Amarpur, P.S. Case No. 188 of 2020 under Sections 341, 323, 307, 504 and 506 of the Indian Penal Code had been lodged on the same day against the



prosecution party in which the petitioner received injury on head. He has also annexed injury report along with the petition.

He further submits that the petitioner had not made any assault on Bimla Devi who was aged about 80 years, old and infirm lady who had received one bruise on her chin which is attributed to co-accused Krishna Sharma, which is not the cause of death of Bimla Devi. He further submits that viscera has been preserved to ascertain cause of death and the report has to be recorded in this regard.

Learned counsel appearing on behalf of the informant and learned APP, vehemently, opposed the prayer for grant of anticipatory bail to the petitioner.

Considering the facts and circumstances of the case and material brought on record and submission made by the learned counsel appearing on behalf of the petitioner that there is no specific allegation against the petitioner that he inflicted any assault on deceased Bimla Devi, this Court is inclined to grant anticipatory bail to the petitioner.

Having regard to the facts and circumstances of the case, let the petitioner above named be released on bail, in the event of his arrest or surrender before the Court below within four weeks from today, on furnishing bail bonds of Rs.10,000/-



(rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Banka in connection with Amarpur P.S. Case No. 187 of 2020, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure, 1973.

(Purnendu Singh, J)

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