

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7809 of 2021

Arising Out of PS. Case No.-392 Year-2020 Thana- BARAHAT District- Banka

Md. Aslam @ Achho S/O Late Md. Tajuddin Resident of Village -
Gourdhowa, P.S. - Barahat, District - Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr. Pratyush Pratap Singh, Advocate
For the Opposite Party : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 08-02-2022 The matter is being heard through video conferencing
due to circumstances prevailing on account of Covid-19
pandemic.

Heard the parties.

The petitioner apprehends his arrest in connection
with Banka (Barahat) P.S. Case No.392 of 2020 registered for
the offences under Sections 147, 148, 149, 307, 427, 452, 504,
506 and 436 of the Indian Penal Code but subsequently, Section
302 of the IPC was added.

As per the prosecution case, the house of the deceased
was burnt by the FIR named accused persons, who came with
various arms and assaulted the family members of the informant
as well as the deceased. In the occurrence the deceased
sustained serious injuries which subsequently resulted into his



death. Initially the case was registered under Section 307 of the IPC but after death of the deceased, section 302 of the IPC has been added.

It has been submitted by learned counsel for the petitioner that there is no specific allegation against the petitioner and allegation of setting fire to the house of the deceased is false and baseless and the house which is said to have been burnt by the accused persons is not a dwelling house. He also submits that no one has seen the occurrence as to who had set fire to the house. He also submits that two of the accused persons, namely, Md. Irsad @ Irsad and Md. Salim Ansari have been anticipatory bail by a coordinate Bench of this Court vide order dated 04.01.2022 passed in Cr. Misc. No. 4665 of 2021.

Mr. Jharkhandi Upadhyay, learned APP for the State, has taken to this Court to various materials collected during investigation in the case including further statements of the informant, deceased and other prosecution witnesses and description of the place of occurrence. He submits that this is a case under Section 302 of the IPC and in such a case, anticipatory bail is generally not granted to the accused unless this Court is absolutely certain that the petitioner is innocent.

Considered the submissions of both the parties.



It is not in dispute that the occurrence has taken place and a person has died and the others have been injured. It is also not in dispute that the accused persons are said to have assaulted the deceased with various arms.

In my view, the petitioner has not been able to make out a special case for grant of anticipatory bail in a case under Section 302 and other allied sections of the IPC. Though two persons have been granted anticipatory bail but this Court feels that the present case is not a fit case for grant of anticipatory bail.

Considering the aforesaid submissions, the application for anticipatory bail is dismissed.

Petitioner is directed to surrender in the court below within four weeks from today.

(Sandeep Kumar, J)

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