

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55793 of 2022

Arising Out of PS. Case No.-35 Year-2018 Thana- KAMTAUL District- Darbhanga

ANITA DEVI WIFE OF SHANKAR KUMAR PANDEY @ FHUL BABU
R/O VILLAGE- SIRHULLI, P.S.- KAMTAUL, DISTRICT- DARBHANGA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Baidya Nath Prasad

For the Opposite Party/s : Mr.Mukesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 16-12-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State through virtual mode.

The petitioner seeks bail in connection with Kamtaul P.S. Case No. 35 of 2018 registered for the offences punishable under Sections 341, 342, 323, 307, 302/34 of the Indian Penal Code.

As per prosecution case, the informant alongwith his family member was present in her house. Co-accused Shankar Kumar Pandey @ Phul Babu, present petitioner and others told the informant to execute the share of her land in favour of the accused persons. It is further alleged that on objection raised by the informant, the accused persons started abusing the informant and the present petitioner ordered her husband and son to kill the informant and others upon which



accused persons began to assault the informant. It is further alleged that when informant's son and husband came to save her, accused persons including the petitioner started assaulting with lathi, danda, bricks and iron rod on the head of informant's husband due to which informant's husband sustained injury on head. It is further alleged that all the accused persons assaulted the informant and her son and when the condition of the informant's husband became serious, all the accused persons fled away. The informant's husband was brought to PHC and after first aid, he was referred to D.M.C.H., Darbhanga and from D.M.C.H., Darbhanga he was referred to P.M.C.H., Patna and in way to Patna, the informant's husband died.

Learned counsel for the petitioner submits that one of the co-accused persons, namely, Shankar Kumar Pandey has faced trial bearing Sessions Trial No. 481 of 2018 and he has been acquitted from the case by the learned trial court vide judgment dated 22.03.2021 on the ground that there is no eye witness of the alleged occurrence other than the informant and the version of informant is quite contradictory on the point of place of occurrence. He further submits that petitioner bears clean antecedent. Petitioner being lady is suffering from ailment of heart and she is in custody since 01.07.2022. Charge sheet



has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that no specific allegation is attributed against the petitioner. All the allegations are general and omnibus in nature. Petitioner has falsely been implicated in this case with ulterior motive due to land dispute. He further submits that in the light of said facts and circumstances the petitioner deserves bail.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, petitioner is lady and having clean antecedent, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M., Darbhanga in connection with Kamtaul P.S. Case No. 35 of 2018, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn



the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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