

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28248 of 2022

Arising Out of PS. Case No.-39 Year-2022 Thana- DARBHANGA District- Darbhanga

Mithilesh Kumar Paswan @ Mithilesh Paswan Son of Late Dashrath Paswan
Resident of Village - Posanpura @ Bishanpur, Ward No. 02, P .O.- Laxmipur,
P.S. - Sadar, District - Darbhanga.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Namrata Mishra, Adv.
For the Opposite Party/s	:	Ms. Pushpa Sinha, APP
For the Informant	:	Mr. Shashank Shekhar with Chandan Kumar, Advocates

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 09-02-2023 Heard learned counsel for the petitioner, learned counsel
for the informant and the learned APP for the State.

The petitioner seeks bail in connection with Town PS
Case No. 39 of 2022, dated 11-02-2022, corresponding to GR No.
348 of 2022, registered for the offence punishable under Sections,
147,149,285, 288, 302, 307, 323, 325, 327, 341, 354 and 436 of the
Indian Penal Code.

There is allegation in the First Information Report (*for
brevity FIR*) that the informant was residing at the land after
constructing a house for last four decades. On the fateful night, it is
alleged that co-accused, namely, Shiv Kumar Jha, with a view to
forcible eviction of the informant, has come with nearly 40 persons
and tried to demolish the house and, on resistance being offered, it is
alleged that Shiv Kumar Jha has poured petrol on one Sanjay Kumar
Jha and Pinki Kumari, who are elder brother and sister of the
informant.

The learned counsel for the petitioner submits that during
investigation, material, including motive has emerged against co-



accused, namely, Shiv Kumar Jha. He allegedly has agreed to let out certain portions of the house to the petitioner, the same forms the basis of his implication. Having no antecedent, the petitioner is in custody since 13/02/2022. It is further submitted that the petitioner's implication is without any basis. Co -accused, namely, Satish Paswan has been allowed bail in Criminal Miscellaneous No. 26380 of 2022.

The learned APP as well as learned counsel for the informant have opposed the prayer for bail. It is submitted that prosecution case of co-accused, namely, Shiv Kumar Jha being accompanied with 40 persons, has been supported by material and statements recorded under Section 161 of the Code of Criminal Procedure (*for brevity Cr. P.C.*). It is in fact, the petitioner, who has gathered the large number of persons for effecting forcible eviction on the fateful night, on account of which, two persons have lost their lives.

This Court has considered the rival submissions, allegations and the material in the course of investigation. During investigation, witnesses have supported the allegation against co-accused, namely, Shiv Kumar Jha of pouring petrol and setting ablaze the brother and sister of the informant. The petitioner is one amongst the 40 persons, who have assembled for ensuring forcible eviction. It is also stated that the petitioner has no antecedents and co-accused, namely, Satish Paswan has been allowed bail in Cr. Misc. No. 26380 of 2022. The aforesaid consideration for the limited purpose of bail, in the opinion of the Court, is sufficient to entitle the petitioner to grant of bail.

The consideration of the Court, however, shall not be deemed to be an expression of opinion on the merits of the case which are yet to be considered at the trial or in any other proceedings.

Let the petitioner, above named, be released on bail on



furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate Darbhanga, in connection with Town PS Case No. 39 of 2022, dated 11-02-2022, corresponding to GR No. 348 of 2022, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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