

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48256 of 2023

Arising Out of PS. Case No.-161 Year-2022 Thana- BIHARIGANJ District- Madhepura

Vikash Kumar @ Vikash Sharma @ Bikash Kumar Sharma Son Of Wakil
Sharma Resident Of Village- Sarauni Kala, Ward No 11. Ps- Bihariganj, Distt-
Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rupesh Kumar, Advocate

For the Opposite Party/s : Mr.Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 09-10-2023 Heard Mr.Rupesh Kumar, learned counsel for the

petitioner and Mr.Md. Ataur Rahman, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Bihariganj P.S. No.161 of 2022, FIR dated 24.06.2022 registered for the offences punishable under Section 147, 148, 149, 447, 448, 341, 323, 324, 307, 302, 427, 379, 504 and 506 of the Indian Penal Code.

3. The prosecution case, in brief, is that on 22.06.2022 at about 10:00 O'clock accused persons including the petitioner along with 20-25 unknown miscreants by constituting unlawful assembly came at the door of informant and started abusing to the informant and on order of co-accused Suresh Sharma and Rajendra Sharma the accused persons started demolishing the



dwelling house of the informant and when the father of the informant namely Visheshwar Sharma forbade the accused persons from doing that act, co-accused Suresh Sharma assaulted with Dabiya causing cut injury at the stomach of Visheshwar Sharma and co-accused Amit Sharma also assaulted to Visheshwar Sharma with rod causing severe injury and he fell to the ground. It is further alleged that when the brother and nephew of the informant came to save then all the accused persons brutally assaulted them causing severe injury and also loot-paat of house house-hold articles as well as jewellery in huge quantity and a cash of Rs. 3,00,000/- by entering into the house of informant. After this, the injured carried to PHC Bihariganj and subsequently the injured referred from Bihariganj to Sadar Hospital, Madhepura and later on injured Visheshwar Sharma succumbed to death during course of treatment. Another injured Umesh Sharma is struggling with his life and death.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent. He has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR. Further submits that from a bare perusal



of the FIR it appears that there is direct and specific allegation against co-accused persons, namely, Suresh Sharma and Amit Sharma and there is no specific allegation of any assault or overt-act attributed against the petitioner, at best, as per allegation in the FIR, the petitioner has assaulted to Dilip Sharma but there is no injury report of Dilip Sharma is available to suggest that he has received the injury from the present occurrence and the co-accused person, namely, Sanjay Sharma @ Sanjay Kumar Sharma, against whom the allegation that he has assaulted to Umesh Sharma and Dilip Sharma, has been granted privilege of anticipatory bail by this Court vide order dated 03.10.2023 passed in Cr. Misc. No. 48218 of 2023.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for anticipatory bail of the petitioner.

6. Considering the aforesaid facts, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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 learned A.D.J.-VIII, Madhepura in connection with Bihariganj P.S. No.161 of 2022,



subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(I) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bonds shall be cancelled by the Court below.

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

(III) And, further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his/her criminal antecedents, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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