

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71320 of 2023**

Arising Out of PS. Case No.-78 Year-2022 Thana- KAMTAUL District- Darbhanga

Manisha Kumari Wife of Hemant Bhardwaj @ Raushan R/o vill - Brahampur,
P.S. - Kamtaul, Distt. - Darbhanga

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Ravi Ranjan, Advocate
For the Opposite Party/s	:	Mr. Narendra Kumar Singh, APP
For the Informant	:	Mr. Manish Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 29-11-2023 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

2. The petitioner in the present case is seeking pre-arrest bail in connection with Kamtaul P.S. Case No. 78 of 2022 registered for the offences punishable under Sections 302, 120B, 341, 323, 379, 504, 506 and 34 of the Indian Penal Code. She has got no criminal antecedent.

3. Learned counsel for the petitioner submits that from a bare reading of the First Information Report it would appear that at first instance, the informant has named three persons namely (i) Umesh Thakur, (ii) Prince Kumar Bhardwaj @ Dheeraj and (iii) Hemant Bhardwaj @ Raushan as the persons who had assaulted the brother of the informant with

preconcert of mind. It is alleged that those three persons assaulted the brother of the informant by *lathi* and iron rod repeatedly whereupon the brother of the informant started shouting. At this stage, the informant and his father came running at the said place and found that co-accused Neelam Devi, Sindhu Kumari, this petitioner and the maternal grandmother of Prince Kumar Bhardwaj @ Dheeraj had come out from their house and they were throwing brick and stone on the road as a result whereof the informant and his father got injured and they were looking to conceal themselves. It is further alleged that on *hulla* nearby people also assembled at the place of occurrence, however while taking his brother to the hospital, his brother died on way.

4. Learned counsel for the petitioner submits that so far as this petitioner is concerned, she has been falsely implicated in this case only because she happens to be wife of co-accused Hemant Bhardwaj @ Raushan. The entire female members of the family, including the maternal grandmother, have been made accused. There is, however, no allegation at all that this petitioner assaulted the deceased.

5. It is further submitted that neither the informant nor his father had suffered any injury, therefore no injury report of

the informant or his father has been brought on record.

6. Learned counsel further submits that the co-accused Umesh Thakur, Prince Kumar Bhardwaj @ Dhiraj, Hemant Bhardwaj @ Raushan, Neelam Devi and Sindhu Kumari, all have been granted regular bail from this Court. A copy of the order dated 02.02.2023 passed in Cr. Misc. No. 56303 of 2022, in the case of Sindhu Kumari has been placed before this Court.

7. Learned counsel submits that *vide* order dated 28.06.2023, the learned court below had issued an order under Section 82 Cr.P.C., copy of which is available on the record, however it will appear that the said order was passed in hot haste and is in complete conflict with the judgments of this Court as no reason at all has been assigned to issue process under Section 82 Cr.P.C. Learned counsel, however, submits that till date the petitioner has not been declared proclaimed offender and in this regard, the word 'absconder' has been wrongly used by the learned Additional Sessions Judge-I, Darbhanga in the impugned order.

8. Mr. Manish Kumar, learned counsel for the informant has opposed this application. It is submitted that this petitioner was one amongst the co-accused who had been throwing stones and bricks on the road. It is not disputed that all

the co-accused of this case have been granted regular bail and police has submitted final form in favour of the maternal grandmother of the co-accused Prince Kumar Bhardwaj.

9. Learned APP for the State has also opposed the prayer for anticipatory bail of the petitioner.

10. Having regard to the facts and circumstances of the case, this Court finds from the materials on the record that all the co-accused of this case have been granted regular bail. So far as this petitioner is concerned, the allegation against her is that she was also involved in throwing stone and bricks on the road but there is no allegation at all that she had assaulted the deceased, the learned court below has though passed an order under Section 82 Cr.P.C. which is a completely non-speaking order and *prima-facie* seems not satisfying any of the conditions mentioned under Section 82 Cr.P.C., the submission of the petitioner is that till date she has not been declared proclaimed offender under Sub-Section 4 of Section 82 Cr.P.C., in such circumstance, this Court is of the considered opinion that the petitioner deserves privilege of anticipatory bail. Let in case of her arrest or surrender within a period of four weeks from today, the petitioner above named be released on bail in connection with Kamtaul P.S. Case No. 78 of 2022 on furnishing bail bond

of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Darbhanga subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

11. 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 her criminal antecedent, 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.

12. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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