

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26654 of 2024

Arising Out of PS. Case No.-316 Year-2019 Thana- LAXMIPUR District- Jamui

Arpit Kumar Son of Navin Kumar Baneli @ Navin Baneli Resident of
Village- Laxmipur, P.S.- Laxmipur, Dist.- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Singh, Sr.Advocate
	:	Mr.Manish Kumar Singh, Advocate
For the Opposite Party/s	:	Mr.Dr.Mrityunjaya Kr.Gautam, APP
For the informant	:	Mr. Narsingh Tanti, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 02-12-2024 Heard Mr.Rajesh Kumar Singh, learned senior counsel for the petitioner, Mr. Narsingh Tanti, learned counsel for the informant and Mr.Dr.Mrityunjaya Kr. Gautam, learned Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in connection with Laxmipur P.S. Case No. 316 of 2019, FIR dated 21.08.2019 registered for the offence under Sections 147, 148, 149, 302, 307, 323 and 324 of the Indian Penal Code.

3. The petitioner along with other accused persons are alleged to have sprayed chilly powder over the family member of the informant and assaulted with sword and garasa.

4. Learned senior counsel for the petitioner submits that the 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 the informant is not the eye witness of the alleged occurrence and due to admitted land dispute the petitioner has falsely been implicated in the present case and from a bare perusal of the FIR it appears that although there is allegation against the petitioner but no one has supported the case of the prosecution with respect to the petitioner. Further submits that the similarly situated co-accused persons, namely, Babita Kumari, Guddu Paswan and Usha Kumari have been granted privilege of anticipatory bail by different Coordinate Benches of this Hon'ble Court vide orders dated 04.03.2020, 10.02.2022 and 17.10.2023 passed in Cr. Misc. Nos.4335 of 2020, 46392 of 2021 and 45370 of 2023 respectively.

5. Learned counsel for the informant and learned A.P.P. for the State, on the other hand, have vehemently opposed the prayer for anticipatory bail of the petitioner and submits that before approaching, the learned court below has issued the process under Section 82 Cr.P.C. against the petitioner in the year 2019 so the present anticipatory bail application is not maintainable.



6. Learned senior counsel for the petitioner has relied upon the judgment/order in the case of **Santosh Yadav @ Santosh Kumar Yadav** passed in **Cr.Misc. No. 38750 of 2021 on 04.07.2022** and the submission part of the learned APP of the said order which reads as follows:

*“Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner and submits that the allegations as alleged in the F.I.R. gets corroborated by the injury found in the postmortem report, learned A.P.P. further submits that after perusal of case diary it manifests that anticipatory bail application of the petitioner is not maintainable as process under Section 82 Cr.P.C. has been issued against the petitioner. Learned A.P.P. in support of his submission relies on the case of **Lavesh vs State (NCT of Delhi)** reported in (2012) 8 SCC 730 and **State of Madhya Pradesh Vs. Pradeep Sharma** reported in (2014) 2 SCC 171”.*

7. And apart from the aforesaid, the learned senior counsel for the petitioner has relied upon the judgment of the Hon’ble Apex Court in the case of **Asha Dubey Vs. The State of Madhya Pradesh**, passed in **Criminal Appeal No.4564 of 2024 (@ SLP(CRL.) No.13123/2024**, paragraph Nos.5,8 and 9 of the



said order, which read as follows:

*“5. Learned counsel appearing for the State and the learned senior counsel appearing for the informant placing reliance upon the judgment of this Court in **State of Madhya Pradesh Vs. Pradeep Sharma**, reported in (2014)2 SCC 171, submitted that the appellant apart from non-cooperation has been declared as a proclaimed offender in terms of Section 82 of Cr.P.C. There are incriminating materials to implicate the appellant. In such view of the matter, the custodial interrogation is required”.*

“8. Coming to the consideration of anticipatory bail, in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a total embargo on considering the application for the grant of anticipatory bail”.

“9. When the liberty of the appellant is pitted against, this Court will have to see the circumstances of the case, nature of the offence and the background based on which such a proclamation was issued. Suffice it is to state that it



is a fit case for grant of anticipatory bail, on the condition that the appellant shall cooperate with the further investigation. However, liberty is also given to the respondents to seek cancellation of bail that has been granted, in the even of a violation of the conditions which are to be imposed by the Trial Court or if there are any perceived threats against the witnesses”.

8. Considering the aforesaid facts and petitioner has clean antecedent, 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 Chief Judicial Magistrate/Successor Court, Jamui in connection with Laxmipur P.S. Case No. 316 of 2019, 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 bond shall be cancelled by the Court below.

(II) 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.

(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 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.

(Rajesh Kumar Verma, J)

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