

IN THE COURT OF THE SESSIONS JUDGE, SAHARSA

Anticipatory Bail Appl. No. 746/ 2022

Basant Sharma and three Ors.Petitioners	versus	The State of Bihar
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ORDER

14.10.2022 : Apprehending their arrest in connection with Bakhtiyarpur P. S. Case No. 222/2022 dated 03.06.2022 for committing offence under Sections 341, 323, 324, 307, 354, 379, 448, 427, 504/34 of the Indian Penal Code, this ABA has been filed on behalf of accused-petitioners namely (1) Basant Sharma, (2) Kamleshwari Sharma, (3) Sadesh Sharma and (4) Nitu Devi pending in the Court of Ld. C.J.M, Saharsa which is pressed.

2. Heard Sri Bhaskar Kumar, learned counsel for the petitioners, Sri R. P. Yadav, Ld. P. P. for the State and perused the case record including the case diary.

3. The prosecution case, as per written report of informant, Asha Devi, in brief, is that on 01.06.2022 at about 8:00 PM while her sons were playing then accused persons namely, (1) Santosh Kumar, (2) Basant Sharma, (3) Bechan Sharma, (4) Kamleshwari Sharma, (5) Satto Sharma, (6) Sadesh Sharma and (7) Neetu Devi armed with lathi and Dabiya entered into her house. Accused-Bechan Sharma gave order. Upon which accused Santosh Sharma assaulted her by Dabiya blow at her head. Accused-Basant Sharma assaulted her by sharp edge weapon at her left hand. Accused-Basant Sharma tornd her blouse with intention to outrage her modesty and assaulted her at the chest by fist and panches. Accused-Kamleshwari Sharma assaulted her sons by lathi. Accused-Satto Sharma and Neetu Devi assaulted her by fist and slaps. Accused-Neetu Devi holding Samat at her hand and assaulted her the back of the informant. Accused-Santosh Sharma started pressing her neck with intention to kill. Nearby people assembled there then accused persons fled away from the place of occurrence. Accused-Sadesh Sharma took out ear ring from the informant worth Rs. 25,000/-. Accused-Kamleshwari Sharma and Bechan Sharma destroyed the house hold article which caused loss of Rs. 20,000/-.

4. It has been urged on behalf of the petitioners that there is two days delay in lodging the FIR for which there is no explanation. Further urged that wife of the co-accused-Sadesh Sharma has been filed a case against the informant party vide Bakhtiyarpur P. S. Case No. 160/2022. Further urged the offence under Sections 354

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and 307 of IPC has not been found true during supervision note. Moreover the offence has been found to be true u/s 308 of IPC and remaining offences are bailable in nature. The injury on the person of the victim has been found to be simple in nature. There is no specific allegation of assault or overt act is against petitioners 2, 3 and 4. Further urged that petitioners bear no criminal history and petitioner no. 4 is lady. Further urged that petitioner no. 2 is old age person aged about 65 years. The investigation is still going on. Therefore, they may be given the privilege of anticipatory bail.

5. Learned. P. P. for the State has opposed the prayer for bail and submitted it is true that the injury is found to be simple in nature but there are two injury found over the person of the victim : (1) lacerated wound over right parietal region of scalp 2" long X 1/4" wide X 1/4" deep which is vital part of the body and (2) lacerated wound over left hand 1/2" long X 1/4" wide and 1/4" deep. There is specific allegation of assault against petitioner no.1-Basant Sharma by a sharp edge weapon at the left hand. The witnesses have supported the case of the prosecution in paragraph nos. 6, 7, 8 of the case diary but has conceded that there is no specific allegation of assault and overt act against the petitioner no.2, 3 and 4 rather omnibus allegation has been levelled against them and they bear no criminal history.

6. Learned counsel for the informant has opposed the prayer of bail and submitted that there is specific allegation of assault by sharp edge weapon against accused-Basant Sharma. Thus it has been prayed that petitioner does not deserve anticipatory bail.

7. Considering the aforesaid facts and circumstances of the case, the allegation against the petitioner nos. 2, 3 and 4, the prayer of anticipatory bail of petitioners, namely,-Kamleshwari Sharma, Sadesh Sharma and Nitu Devi stands allowed. they are ordered to be released on bail in the event of arrest/surrender within 4 weeks from receipt/production of copy of this order on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of like amount each with the condition laid down under the provisions of Section 438(2) Cr.P.C subject to condition that petitioners shall cooperate in the investigation and shall be present before I.O, whenever required.

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Besides that they are directed to remain physically present on each and every date fixed in the case till framing of charge after cognizance after that do proper *pairvi* in Court on each date fixed in this case. In the event of failure to appear before the court on two consecutive dates without showing any genuine reason, the court will be at liberty to cancel the bail bond of the petitioners.

8. So far as the petitioner no.1-Basant Sharma is concerned, the specific allegation against the petitioner, the prayer of anticipatory bail stands **disposed of** with observation that if petitioner surrenders before the learned lower court within four weeks from the receipt/production of the copy of this order, his regular bail shall be considered on its own merit without being prejudiced by this order.

Dictated & corrected by me

Sd/-

Sessions Judge,