

IN THE COURT OF 3RD ADDITIONAL SESSIONS JUDGE,
DISTRICT – DARBHANGA, BIHAR
A.B.P. NO. 1213/2019

Md. Mahtab

.....Petitioners

Versus

State of Bihar

.....Opposite Party

For the Petitioner :- Shri Afroz Alam Khan, Advocate.

For the O.P.(State):- Shri Nasiruddin Haider, P.P.

ORDER

21-09-2019 This is an application for grant of anticipatory bail u/s 438 of Cr.P.C. filed on behalf of accused/petitioner Md. Mahtab who are apprehending their arrest in connection with Simri P.S. Case No. 60/2019 registered for offences punishable u/s 341, 323, 379, 354 (B), 504, 506 read with Section 34 of I.P.C.

Heard learned counsel for the petitioner as well as learned P.P. for the state.

As per FIR, the prosecution in brief is that on 07/03/2019 at 3 PM when the informant was sitting in her courtyard suddenly this petitioner along with other co-accused came there and started abusing her. On instigation of one co-accused Ramzani, the petitioner caught hold the hair of the informant and naked her by put out her sari and tore her blouse and started assault upon her. When the informant tried to flee the accused Md. Neezam assaulted by dabiya which caused injury on her head and when she fell down all the accused assaulted her. When the informant's daughter Khushboo came to save the informant, all the accused persons were also assaulted her and thereafter, they entered in the house of the informant and accused Md. Adil and Neezam took a attachi containing ornaments and cash of Rs. 20,000/- and threatened her. This case has been registered on the basis of fard beyan of the informant.

Learned counsel for the petitioner submitted that the petitioner is quite innocent and has committed no offence. He has been falsely implicated in this case due to enmity and personal grudge. The informant's story is concocted and baseless. No occurrence as such mentioned in FIR has taken place. He further submitted that the present case is the counter blast of Simri P.S Case No. 61/19 which has been registered by wife of the co-accused of this case, Md Nizam.He further submitted that the offence under Section 379 and 354 (B) of the IPC is falsely introduced to make the case serious and

non-bailable. The Ld. Counsel for Petitioner has also submitted that the co-accused of this case has been granted bail by the Lower Court. He further submitted that the petitioner is a local man of sufficient means and he is not likely to abscond and he is ready to abide by all terms and conditions imposed on him by this Court.

On the other hand, Learned P.P for state has vehemently opposed the anticipatory bail petition.

From the perusal of the case record, it appears that this case has been registered on the basis of fard beyan of the informant when she was admitted in the hospital after incident. There is a direct allegation upon this petitioner to naked the informant and put out her sari and tore her blouse. The prosecution case has supported by the witnesses in para 7, para 17 and para 32 of the case diary. The notice has been issued on 26/08/2019 by the police of Simri P.S under Section 41 (A) against this petitioner for his appearance before investigating officer to enquire him regarding facts and circumstances of the case but the petitioner has not appeared before the investigating officer. Other co-accused have granted regular bail by the Lower Court.

Considering the aforesaid facts, circumstances and the nature of the accusation in which the alleged heinous offence has taken place against the woman. Hence, this Court is not inclined to admit the petitioner to the privilege of anticipatory bail.

Accordingly, the prayer for grant of anticipatory bail to the petitioner stands rejected.

(Dictated)

Sd/-

(Manoj Kumar Dwivedi)
3rd Addl. Sessions Judge,
Darbhanga.
21-09-2019