

(2017) 03 JH CK 0053
In the Jharkhand High Court
Case No : 220 of 2017

Ashwini Srivastava @ Ashwini Kumar Srivastav

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 08-03-2017

Acts Referred:

[Indian Penal Code, 1860](#), [Section 435](#),
[Section 147](#), [Section 324](#), [Section 307](#), [Section 323](#), [Section 326](#)

Citation : (2017) 03 JH CK 0053

Hon'ble Judges : Rajesh Shankar

Bench : SINGLE BENCH

Advocate : A.K. Kashyap, ?Anurag Kashyap, Supriya Dayal, Suraj Verma,
Pandey Neeraj Rai, Rohit Ranjan Sinha, M.M.Kishore

Final Decision : Disposed

Judgement

1. Heard learned counsel for the parties.
2. Petitioners are accused in a case registered for the offences punishable under Sections 147, 148, 149, 341, 342, 323, 324, 325, 326, 337, 338, 307, 353, 504, 506, 427, 435 of the Indian Penal Code and also under Section 27 of the Arms Act.
3. Learned senior counsel for the petitioners submits that the petitioners have been falsely implicated in the present case and have not committed any offence as alleged in the F.I.R. Initially, the F.I.R. was lodged against 50 named accused persons and 400 unknown villagers. The F.I.R. was lodged by one Dinesh Kumar Surin, Block Development Officer, Gola. Though the petitioners are named in the F.I.R., yet they have not committed any offence as has been alleged by the informant in his written report. It has been alleged that there was a dispute between the Raiyats and M/s. Inland Power Ltd. Co. with respect to transfer of land and in that connection, the main gate of the company was surrounded by

several persons under the banner of "Nagrik Chetna Manch", Gola. It was earlier decided that the meeting would be convened on 29.08.2016 and the informant was directed by the Sub-Divisional Officer, Ramgarh to maintain law and order. It is further alleged that the police party was deputed on 29.08.2016 while a meeting was going on amongst the Circle Officer, Gola, Raiyats of the concerned village and the management of the said company. It is also alleged that the petitioners were agitating in front of the gate of the said company and on getting the said information, the informant arrived there and tried to pacify the matter. However at 4:30 PM, the agitators set the generator of the company on fire and also damaged the machines of "Intake well". The informant also tried to pacify the petitioner no.1 (Rajeev Jaiswal) but he misbehaved with him and also instigated the agitators, who started pelting stones due to which, injuries were caused to the police officials and the informant.

4. Learned senior counsel for the petitioners further submits that the allegations against the petitioners are concocted. In fact, the villagers were having notion that local administration is in connivance with the said company. 5. As per the earlier meeting of the villagers with the said company, it was decided that next meeting would be held on 29.08.2016 in the premises of the company, however, in violation of the said assurance, the meeting was convened on 29.08.2016 in the office of Circle Officer, Gola. Due to the said reason, the villagers/Raiyats got agitated and were protesting in front of the gate of the said company on the date of alleged occurrence i.e. 29.08.2016. The police party was fully armed and during the said incidence, tear gas was also used. Moreover, in the said occurrence, two villagers were also killed in police firing. Any lawlessness, which prevailed at the time of occurrence, can only be attributed to the failure of the administration to handle the situation. Though, it has been alleged by the informant that the petitioner no.1 shot fire by a rifle, which he had carried with him, yet the police has not recovered any rifle from the place of occurrence or from the possession of the petitioner no.1. Moreover, no bullet injury has been sustained by any police personnel. The injuries sustained by some of the police personnels are simple in nature. Though it has been said that the informant sustained injury in his left eye, yet the nature of the injury has not been specified in the injury report. It has merely been said that the injury has been caused by assault. Moreover, the informant was also not hospitalized. The story made out by the informant has not been supported by any independent witness. So far as the other petitioners are concerned, they were allegedly the part of the mob. All the petitioners are in judicial custody since 23.11.2016 and therefore, they may be given the privilege of regular bail.

6. Learned A.P.P. as well as learned counsel for the company while opposing the petitioners' prayer for bail submit that the petitioner no.1, for his personal motive, instigated the mob, which gave rise to the present occurrence in which there were stone pelting by the villagers and to control the mob, the police had to take recourse of firing. The petitioner no.1 is fully responsible for the said occurrence. In view of the said facts, the petitioners do not deserve the privilege

of regular bail.

7. Considering the aforesaid facts and circumstances, I am inclined to enlarge the petitioners on bail. Accordingly, all the three petitioners, above named, are directed to be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Ramgarh in connection with Rajrappa P.S. Case no. 79 of 2016 corresponding to G.R. Case no. 984 of 2016.

8. Since, this bail application itself has been disposed of, the interlocutory application being I.A. No. 1539 of 2017 is also disposed of accordingly.