

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24871 of 2014

Arising Out of PS.Case No. -89 Year- 1994 Thana -KAUAKOL District- NAWADA

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1. Binay Mandal @ Binay Raut, son of Late Sukhdeo Raut, resident of
village- Kharsari, P.S.- Kawakola, District- Nawadah

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S. M. Shabbir Alam, Advocate

For the Opposite Party/s : Mr. Nand Kumar, APP

Mr. Ashok Kumar Singh, Advocate

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CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH
ORAL ORDER

8/ 22-01-2015

Heard learned counsel for the Petitioner and the

State.

The Petitioner seeks bail in a case instituted for the
offence under Section(s) 147, 148, 302 Indian Penal Code and
Section 27 of the Arms Act.

Supplementary Affidavit and Counter Affidavit have
been filed explaining the antecedents of the Petitioner. In the
Supplementary Affidavit, it has been stated that the Petitioner was
implicated in one case prior to the present case and subsequently
in two other cases. In the Counter Affidavit, it has been stated that
the Petitioner is involved in six other cases. It has been explained
by the Petitioner that such a figure has been given on the basis of
paper cutting.

It has been submitted by the counsel for the Petitioner



that even though there is allegation that the Petitioner had fired at one of the deceased, as against them there was an allegation that other co-accused persons had cut the second deceased into pieces, who were put on trial but acquitted, disbelieving the eye witnesses account. The judgment has been annexed as Annexure-5. It has further been submitted that during investigation the allegation that the Petitioner had fired at the deceased was found untrue by the supervising authority on the basis of the report of Forensic Science Laboratory.

As against this, counsel for the Informant submits that a Govt. Appeal has been filed against the acquittal which has been admitted but the accused persons had not appeared pursuant to notice upon them. Further submission of the counsel for the Informant is that connected trial of the co-accused proceeded till final argument when he absconded.

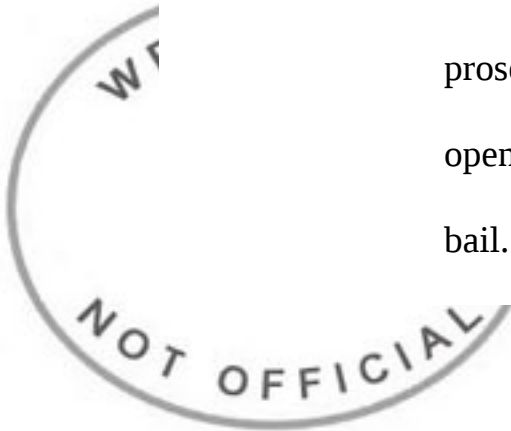
Considering the period of custody, let the Petitioner, above named, be released on bail on furnishing bail bond of ₹5,000/-(Five Thousand) with two sureties of the like amount each or any other surety to be fixed by the Court below to the satisfaction of the Chief Judicial Magistrate, Nawadah, in connection with Kawakole P.S. Case No.89 of 1994, subject to the conditions:

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- (i) That one of the bailors will be a close relative of the petitioner, who will give an affidavit giving genealogy as to how he is related with the petitioner and another bailor shall be the wife of the Petitioner. The bailors will undertake to furnish information to the court about any change in the address of the petitioner,
 - (ii) That the bailors shall also state on affidavit that they will inform the court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse,
 - (iii) That the petitioner will give an undertaking that he will receive the police papers on the given date and be present on date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse, and
 - (iv) That the petitioner shall be physically present on each date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

The Chief Judicial Magistrate, Nawadah, is directed to immediately commit the case to the Court of Sessions whereafter the Trial Court shall frame charge against the Petitioner and thereafter amalgamate the trial of the Petitioner

with that of co-accused Suresh Raut.

If at all, the Petitioner is found tampering with the prosecution evidence or misusing the privilege of bail, it will be open to the Informant to file an application for cancellation of his bail.



JA/-

(Anjana Prakash, J)

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