

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.47817 of 2014

Arising Out of PS.Case No. -183 Year- 2014 Thana -BHAWANIPUR District- PURNIA

1. Tuntun Mandal Son of Kailas Mandal Resident of village- Sri Pur Moti
Chak, P.S.- Bhawani Pur, District- Purnea

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Shri Nadimul Hasan, Advocate

For the Opposite Party/s : Shri Jagdhar Prasad, App

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA
ORAL ORDER

2 03-03-2015 Heard.

There is no dispute in the fact that the petitioner was arrested by the informant and his companions and had alleged to have recovered and seized arms from his possession, as per details of the weapons in the F.I.R. as also in the seizure list.

By drawing the attention of the court to Section 37 of the Arms Act, it was submitted that it was an offence bailable. Submission also was that on account of ill-will and animosity, the informant and his companions wrongly and illegally arrested and

kept him confined at his *Darbaja* by tying him at his hands and feet and after arrival of the police, planted the weapon to foist the case.

The rejection order is as mechanical as we confront these days, which are being passed by the Officers in the rank of Sessions Judges. The learned Judge, who was disposing of B.P.No. 725 of 2014 did not even adopt the ordinary intelligence of looking to the provision of Section 37 of the Arms Act to find out as to whether the offence was bailable or non-bailable. The direction contained in Section 37 of the Arms Act is that after an accused is arrested in the light of the provision of Cr.P.C on arrest by a private person and any arm is recovered from him, the arrested man and the arms have to be handed over to the police without delay and the Officer-in-charge of the Police Station shall have to release him on his furnishing bond with or without surety.

The High Court is grappling with Cr. Misc. petitions so much so that all the Hon'ble Judges today are sitting singly to hear bail petitions and to handle the pressure of pendency of bail petitions. I personally feel that the orders rejecting prayer for bail are being passed in simple matters in which orders should have been passed to grant bail. These orders are being passed by officers manning the Court of Sessions only to inform this Court

about their honesty and integrity. Let the matter be placed before the Hon’ble Inspecting Judge of the Purnea for his Lordship’s evaluation of the impugned order.

As regards the prayer for bail, it is directed that the above named petitioner shall be released on furnishing personal recognizance bond of Rs. 500/- only without any surety in to the satisfaction of the Additional Chief Judicial Magistrate, Purnea in connection with Bhawanipur P.S.Case No. 183 of 2014.

(Dharnidhar Jha, J)

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