

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53596 of 2015

Arising Out of PS.Case No. -224 Year- 2011 Thana -MASRAKH District- SARAN

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1. Sudhir Singh @ Sudhir Kumar Singh, Son of Dina Nath Singh, resident of Village- Masrakh, Police Station- Masrakh, District- Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa

For the Opposite Party/s Mr. Manoj Kr. 1(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

03/ 02.12.2015 Heard learned counsel for the petitioner, learned Addl. Public Prosecutor for the State as well as learned counsel for the informant.

The accusation against the petitioner is that he opened fire on the deceased but it is admitted case of the prosecution that prior to opening of fire by the petitioner, co-accused Dinanath Singh and Kedar Singh had opened fire on the deceased. The post mortem report of the deceased reflects that only two injuries were found on the person of the deceased.

Learned counsel appearing for the petitioner points that co-accused Kedar Nath Singh @ Kedar Singh has already been granted privilege of bail by this court vide order dated 9.11.2015 passed in Cr. Misc. no.45408/2015.

Learned counsel appearing for the informant opposes the prayer and refers a decision reported in **JT 2015 (9) SC 61 (Neeru**



Yadav v. State of U.P. and Anr.) in which the Apex Court of this country held that history- sheeteer should not be granted bail. On the strength of the aforesaid judgment, learned counsel appearing for the informant points out that the petitioner is history- sheeteer and detail of antecedent has been given at para 3 of the counter affidavit. It is further contended by him that the petitioner has suppressed actual fact in his petition.

Learned counsel for the petitioner refutes the above stated submissions pointing out that in para 3 of the petition, petitioner has given detail of Masrakh P.S. Case no. 84/2009 but due to clerical error in place of Masrakh P.S. Case no. 84/2009, it was written as Masrakh P.S. Case no. 48/2009. It is further contended by him that so far as Masrakh P.S. Case no. 28/2008 and Masrakh P.S. Case no. 96/2009 are concerned, police has already submitted final form finding accusation untrue in respect of the petitioner, though the aforesaid final forms have not been accepted by the concerned court as yet. It is further contended by him that so far as Masrakh P.S. Case no. 56/2014 is concerned, the same is offshoot of the present case and police lodged the aforesaid case showing the petitioner as absconder. It is further contended by him that, no doubt, petitioner committed error in not disclosing the aforesaid fact in para 3 of the petition but there was no intention of the petitioner to suppress the actual fact and, as a matter of fact, petitioner has not given detail of the above stated Masrakh P.S. Case no. 28/2008 and Masrakh P.S. Case no. 96/2009 as in both the aforesaid cases, police has already submitted final form. It is further contended by him that the judgment cited on behalf of the

informant is not applicable in the present case because even if it is assumed that four cases were lodged against the petitioner, then also, petitioner can not be treated as history- sheeter because all the aforesaid cases were registered under minor sections of the Indian Penal Code.

Considering the aforesaid facts and circumstances as well as submissions of the parties, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge IV, Saran at Chapra in Sessions trial no. 78/2015 arising out of Masrakh P.S. Case no. 224/2011.

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(Hemant Kumar Srivastava,J)

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