

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.24470 of 2015

Arising Out of PS.Case No. -16 Year- 2010 Thana -SAHIYARA District- SITAMARHI

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1. Shailendra Kumar @ Shailendra Mahto son of Late Ram Kripal Mahto
Resident of Village- Matiyar Kala, Ward No. 3, Police Station-
Sahiyara, District- Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Verma

For the Opposite Party/s : Mr. Smt. Nirmala Kumari (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-07-2015

Heard learned counsels for the petitioner
and the State.

Petitioner is apprehending his arrest in a
case registered for the offences punishable under Sections
302/34 of the Indian Penal Code and Section 27 of the Arms
Act.

Initially police case was registered alleging
therein that co-accused Kamal Kumar Das, Ashok Das and Raj
Kumar Das resorted to fire on the son of the informant who
succumbed to the injuries. Though it was alleged against the
petitioner that petitioner armed with pistol was also member of
the unlawful assembly. The petitioner was not sent up for trial
and subsequently final form was accepted. During the trial of
the co-accused the petitioner has been summoned in exercise
of jurisdiction under Section 319 of the Cr.P.C.

It is submitted by learned counsel for the
petitioner that specific accusation of firing was against three

co-accused and during trial the witnesses have developed the statement to the effect that petitioner also resorted to fire.

It is submitted by learned counsel for the informant that P.W.s 1, 2 and 3 during trial in their evidences have suggested that petitioner also resorted to fire.

Considering the fact that the First Information Report does not describe the petitioner as assailant, the petitioner was not sent up for trial leading to acceptance of final form and the impugned order does not reflect the deliberation of the evidence which persuaded learned trial Court to summon the petitioner in exercise of jurisdiction under Section 319 of the Cr.P.C, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of 12 weeks from today, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Sitamarhi in connection with Sahiyara P.S. Case No. 16 of 2010, Sessions Trial No. 521 of 2014, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Learned Court below will cancel the bail bonds of the petitioner, if the petitioner defaults for two consecutive occasions during trial.

(Dinesh Kumar Singh, J)

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