

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38362 of 2015

Arising Out of PS.Case No. -29 Year- 2010 Thana -GHOGHARDIHA District- MADHUBANI

Rajendra Jha Son of late Kinkar Jha

.... .. Petitioner/s

Versus

The State of Bihar

.... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Jha, Advocate

For the Opposite Party/s : Mr. Bharat Bhushan (App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 24-09-2015

Heard learned counsels for the petitioner and the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 302/120B of the Indian Penal Code.

Learned counsel for the petitioner is permitted to make necessary correction in the petition.

The prosecution case is that on the order of this petitioner, co-accused Dinesh Yadav caused fire arm injury to the son of the informant, who subsequently, succumbed to his injuries. Though, the petitioner was named in the FIR, but on conclusion of investigation, the petitioner was not sent up for trial, the Final Form was accepted but the trial of co-accused proceeded. During trial of the co-accused, the petitioner has been summoned in exercise of jurisdiction under section 319 Cr.P.C. vide order dated

09.04.2015 passed by learned trial court on the basis of evidence of PWs -1 and 2.

It is submitted by learned Sr. Counsel for the petitioner that out of two witnesses, on the basis of which the petitioner has been summoned, PW-2 is hearsay witness and after considering the totality of the materials collected during investigation, the petitioner was not sent up for trial and the same was accepted by the learned court below. It is well settled view that exercise of jurisdiction under section 319 Cr.P.C. should be made sparingly.

Considering the fact that the petitioner has been summoned in exercise of jurisdiction under section 319 Cr.P.C. after five years of commencement of the trial and the learned Sessions Judge has not deliberated the evidence which persuaded the learned trial court to summon the petitioner in exercise of jurisdiction under section 319 Cr.P.C., let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge, Madhubani in connection with Ghoghardiha P.S. Case No.29 of

2010, subject to the conditions as laid down under Section 438(2)
Cr.P.C.

Learned court below will be at liberty to cancel the
bail bonds of the petitioner, if he defaults for two consecutive
occasions.

(Dinesh Kumar Singh, J)

Ashwini/-

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