

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43215 of 2015

Arising Out of PS.Case No. -12 Year- 2015 Thana -DUMARIA District- GAYA

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1. Khalique Raza Khan @ Laddu Khan, son of Mozahir Ali Khan, Resident of village- Salaiya, Police Station- Dumaria, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sajid Salim Khan

For the Opposite Party/s : Mr. Chandra Sen Pd. Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-09-2015

The matter has been listed out of turn on the prayer of learned counsel for the petitioner since the petitioner has to file nomination as he is going to contest assembly election. A supplementary affidavit to that effect has been filed.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 147, 148, 149, 212, 216, 323, 324, 325, 326, 307, 351, 302, 332, 333, 435, 379 and 120B of the Indian Penal Code 27 of the Arms Act, 3, 4 and 5 of the Explosive Substances Act, 17 of the Criminal Law Amendment Act and 10, 11 and 13(i)(ii) of Unlawful Activities (Prevention) Act.

The prosecution case is that on 23.02.2015, the constables of Cobra Battalion, C.R.P.F. proceeded for patrolling



when they had an encounter with the armed 25 named and about 90-100 unknown naxalites though there had been no casualty. It is further alleged that on 24.02.2015 at about 9 PM when the patrolling party moved forward then they saw twenty six persons including the petitioner on the road, hence suspected to be associates of armed naxalites and being deployed for keeping an eye on the movement of patrolling party and were providing information to the naxalites. The petitioner was not named, subsequently naxalites blasted the bus of the patrolling party resulted into injury to the several persons and subsequently two police personnel succumbed to the injuries.

It is submitted by learned counsel for the petitioner that only on suspicion, the accusation has been levelled. There is no accusation that the petitioner participated in getting the explosive done or he was in or around the explosive site. The petitioner is a member of Zila Parishad. The petitioner reported before the DIG, Magadh Range about his false implication by the local police when the DIG found that SDPO, Sherghati falsely implicated the petitioner and other Panchayat representative in similar case. It is further submitted that though, the petitioner is accused in three other cases, but out of three, in two cases the petitioner was not sent up for trial and cognizance has not been taken. Moreover, in

third case the petitioner is on bail, statement to that effect has been in para 3 of the supplementary affidavit which reads as follows:-

“That the two cases i.e. Dumaria P.S. Case No. 38 of 2012 dated 17.06.2012 and Barachatti P.S. Case No. 278 of 2012 dated 20.06.2012, in which the petitioner had been made an accused, the police on investigation found the accusation against the petitioner to be untrue and submitted final form against him. In both the said cases learned SDJM, Sherghati has not taken cognizance against the petitioner.”

Considering the suspicious nature of accusation against the mob, 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 SDJM, Sherghati at Gaya in connection with Dumaria P.S. Case No. 12 of 2015, subject to the conditions as laid down under Section 438(2) Cr.P.C.

The bail bonds of the petitioner shall be accepted on filing affidavit by the petitioner before the learned court below to the effect that he will regularly co-operate in the investigation. The non-co-operation of the petitioner in the investigation will give liberty to the learned court below to cancel the bail bonds of the

petitioner. The learned court below will also be at liberty to cancel the bail bonds of the petitioner if he gets substantially involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

Amrendra/-

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