

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.49763 of 2015

Arising Out of PS.Case No. -92 Year- 2015 Thana -LODIPUR District- BHAGALPUR

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Pawan Yadav Son of Mahesh Yadav Resident of Village-Basantpur, P.S.-
Lodipur, District-Bhagalpur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh

For the Opposite Party/s : Mr. Ahmad Ali(App)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 04-11-2015

Heard learned counsel for the parties.

Having regard to the nature of allegation for offence under sections 307, 147, 148, 149, 504, 506 of the Indian Penal Code and section 27 of the Arms Act, this Court would not be inclined to grant privilege of anticipatory bail to the petitioner in relation to an incident in which repeated firing is said to have been made by the gang in which the petitioner was also named as a person. As a matter of fact the informant has stated that when he demanded money the gang of the petitioner including the petitioner himself had refused to make payment.

The petitioner, however, says that he did not belong to the gang. In fact he has also got no criminal antecedent. It has also been submitted that the petitioner actually was working in the wine shop of the informant and since he wanted to get his

remuneration for the work done by him, he has been made accused in the present case by the informant.

The fact that the petitioner was named in the F.I.R. in relation to an incident involving allegation of section 307 I.P.C. is admitted. Learned counsel for the petitioner is not in a position to say as to whether the police in course of verification of the place of occurrence had found any trace of firing either by way of cartridge hitting the shutter or even otherwise.

Considering all these aspects this Court would direct the petitioner to surrender before the court below within a period of four weeks from today, whereafter the court below shall examine the case diary and if he finds that the I.O. in course of inspection of the place of occurrence has found no trace of firing as alleged in the F.I.R., and that there is any material to show that the petitioner was actually working in the shop of the informant, he shall be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the lime amount each to the satisfaction of the Chief Judicial Magistrate, Bhagalpur in Lodipur P.S.Case No. 92/2015, subject to the following conditions:

- (i) If the court below finds any material against the petitioner, he shall be taken into custody but on the other hand, if it does not find either of two materials, as indicated

above, he shall be released on bail.

(ii) That the court below shall make verification of criminal antecedent of the petitioner and if it is found that he is accused in any other criminal case, he shall not be granted bail and would be taken into custody.

(iii) That both the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.

(iv) That the bailor shall also state on affidavit that he will inform the Court concerned if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.

(v) That the petitioner will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(vi) That the petitioner will be well represented on

each and every date of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

surendra/-

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(Mihir Kumar Jha, J)