

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47877 of 2015

Arising Out of PS.Case No. -38 Year- 2015 Thana -GHOSBARI District- PATNA

=====

Madhu Yadav Son of Mauli Yadav R/o vill. - Ishanagar, P.S. Ghoswari,
Distt. - Patna

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s :

For the Opposite Party/s :

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

3 10-11-2015 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends arrest in Ghoswari P.S.
Case No. 38 of 2015 dated 13.06.2015 instituted under Sections
307/353/34 of the Indian Penal Code and 27 of the Arms Act.

The petitioner along with five others is accused of
making indiscriminate firing on the police party when it had gone
to apprehend them after receiving information that they were
planning to commit crime.

Learned counsel for the petitioner submits that he has
been falsely implicated as only on the basis of the identification



made by the local '*Dafadar*' his name has been mentioned in the F.I.R. It is also his categorical stand that nothing incriminating has been recovered from the alleged place of occurrence to indicate that there had been firing on the police party as no cartridge etc. have been recovered from the said spot. Learned counsel submits that the petitioner has no criminal antecedent and the other five co-accused have been granted anticipatory bail by order dated 13.08.2015 in Cr. Misc. No. 38 of 2015 by a co-ordinate Bench of this Court, copy of which has been made Annexure-2.

Learned A.P.P. submits that nothing has come on record to indicate that no material has been recovered from the place of occurrence including empty cartridge etc. It is further submitted that bare perusal of the order dated 13.08.2015 indicates that the submission made before the Court was that 100 people made indiscriminate firing on the police personnel but none received any injury. It is submitted that in that background the other five co-accused had been granted anticipatory bail on a factually incorrect statement made before the Court as in the present case only six persons and all named are accused of firing on the police personnel and not 100 people making indiscriminate firing and in that view of the matter, the petitioner cannot take advantage of an order based on factually incorrect submission before the Court.

Having considered the aforesaid, the application stands disposed off with a direction to the court below to verify from the police investigation as to whether any incriminating material has been recovered from the place of occurrence to indicate firing on the police party. If it comes to light that there has been recovery of materials indicating firing, it will be deemed that the prayer for anticipatory bail has been rejected.

However, if it is found that there has been no recovery from the place of occurrence to indicate such firing, the petitioner, in the event of arrest or surrender before the court below within six weeks from today, shall be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Barh, Patna in Ghoswari P.S. Case No. 38 of 2015, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J)

Anjani/-

U		T	
---	--	---	--