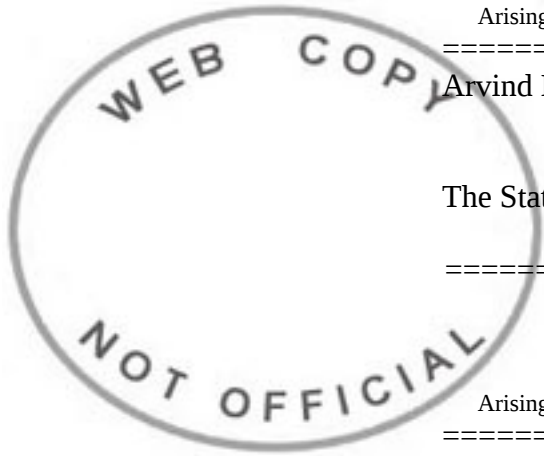




IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38134 of 2014

Arising Out of PS.Case No. -57 Year- 2014 Thana -KUDRA District- BHABHUA (KAIMUR)

Arvind Kumar Singh @ Arbind Kumar Singh

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

with

Criminal Miscellaneous No.39749 of 2014

Arising Out of PS.Case No. -57 Year- 2014 Thana -KUDRA District- BHABHUA (KAIMUR)

Om Prakash Choudhary

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

with

Criminal Miscellaneous No.38423 of 2014

Arising Out of PS.Case No. -57 Year- 2014 Thana -KUDRA District- BHABHUA (KAIMUR)

Anup Kumar Singh

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

with

Criminal Miscellaneous No.29392 of 2014

Arising Out of PS.Case No. -57 Year- 2014 Thana -KUDRA District- BHABHUA (KAIMUR)

Sonu Kumar Singh

..... Petitioner/s

Versus

The State of Bihar

..... Opposite Party/s

Appearance :

(In Cr.Misc. No.38134 of 2014)

For the Petitioner/s : Mr. Avanish Kumar Singh

For the Opposite Party/s : Mr. Veena Kumari Jaiswal(App)

(In Cr.Misc. No.39749 of 2014)

For the Petitioner/s : Mr. Dr. Shashi Shekhar Kishore

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

(In Cr.Misc. No.38423 of 2014)

For the Petitioner/s : Mr. Rajani Kant Pandey

For the Opposite Party/s : Mr. Arun Kumar (App)

(In Cr.Misc. No.29392 of 2014)

For the Petitioner/s : Mr. Rakesh Singh

For the Opposite Party/s : Mr. Abhay Kr. Roy (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 19-01-2015 Heard learned counsel for the petitioners and the State.

The petitioner are languishing in custody since 06/06/2014, 16/07/2014, 04/06/2014 and 01/04/2014 in a case registered for the offences punishable under Sections 4 / 5 Explosive Substances Act.

It is alleged that on eve of the Parliamentary election the police while patrolling, intercepted one Maruti Ertiga car from which driver along with two persons tried to escape when Sonu Kumar Singh was apprehended. From Ertiga car 425 explosives in two boxes and 12000 pieces of electronic detonators in four boxes were recovered. Sonu disclosed the name of Om Prakash Choudhary and Balistar Choudhary as the persons who escaped from the place of seizure. Batch number of the recovered explosives suggest that it was supplied by Solar Industries to Mishra Explosives and Deonath Bhagwat Chunar, the whole seller. The Mishra explosives disclosed the name of 14 retailed explosive licensee including the name of the petitioner Anup Kumar Singh. During investigation it was found that the vehicle in question was registered in the name of Arvind Kumar Singh and it

was also found that the petitioners Anup Kumar Singh, Om Prakash Choudhary and Sonu Kumar Singh talked to each other several times through mobile phone before the alleged seizure.

Learned counsel for Arvind Kumar Singh submits that as per the accusation the petitioner was not travelling in the car. He sold the seized vehicle to Om Prakash Choudhary on 13.02.2014 though the registration was not transferred but possession was given and the investigating agency did not investigate as in whose possession the vehicle was on the date of seizure. The investigating agency did not further verify as to who was driving the vehicle, in question.

It is submitted on behalf of Om Prakash Choudhary that he was admittedly not apprehended from the place of seizure. The confession of accused Sonu made before the police is not admissible and the vehicle was registered in the name of Arvind Kumar Singh on the alleged date of seizure. Seizure cannot be treated to be made from the possession of the petitioner.

It is submitted on behalf of Anup Kumar Singh that neither the supplier nor the person in whose favour the supplies were made but has been made accused only on suspicion and the whole sale dealer Mishra explosives named 14 retail explosive dealers including the petitioner on basis of which the petitioner

has been apprehended. The petitioner is a retail explosive licensee and he was admittedly not present in the seized vehicle, hence recovery cannot be treated to be from the possession of the petitioner.

It is submitted on behalf of petitioner Sonu Kumar Singh that he was simply a passenger in the vehicle in question as on the eve of Parliamentary election, public transport was not available. The recovery cannot be treated from the possession of the petitioner who is a student and selected as constable in CISF.

It is commonly submitted on behalf of all the petitioners that none of the petitioners have any criminal antecedent. Statement to that effect has been made in para 3 of each of the petition. The petitioners have been made accused on mere suspicion particularly on the basis of conversation through mobile without verifying the factum of conversation between the petitioners Om Prakash Choudhary, Anup Kumar Singh and Sonu Kumar Singh. The investigation has already been concluded and the petitioners have been charge sheeted.

Considering the suspicious nature of accusation, the claim of the petitioners that they have no criminal antecedent and the investigation has already been concluded, let the above named petitioners be released on bail on furnishing bail bond of Rs.

10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Bhabhua (Kaimu) in connection with Kudara P.S.Case No. 57 of 2014.

(Dinesh Kumar Singh, J)

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