

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34211 of 2014

Arising Out of PS.Case No. -300 Year- 2013 Thana -BHABHUA District- BHABHUA (KAIMUR)

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1. Dhupan Singh @ Birmani Singh Son of Late Ram Janam Singh R/o
Village Silauta, P.S. Sonhan, District Kaimur Bhabhua

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pathak

For the Opposite Party/s Mr. Anand Mohan Prasad Mehta(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

03/ 23.01.2015 Supplementary affidavit is filed on behalf of the petitioner.

Heard learned counsel for the petitioner, learned Addl.
Public Prosecutor for the State as well as learned counsel for the
informant.

Petitioner is in jail custody since 2.7.2014 in a case
registered under sections 302, 120B/34 of the IPC and 27 of the Arms
Act.

According to the prosecution case itself, it were co-accused
Sonu Singh, Nagina Singh and Munna Singh who shot fire at the
deceased. So far as the petitioner and one co-accused Uma Singh @
Uma Shankar Singh are concerned, they threatened the persons who
were present at the place of the occurrence and also made firing in the
air.

The contention on behalf of the petitioner is that in course
of investigation when statement of one eye-witness vide para 27 of the

case diary was recorded, he did not say anything in respect of participation of the petitioner in the alleged crime.

It is further contended by him that at the time of filing of this petition, petitioner was not aware about registration of Bhabua P.S. case no. 205/2014 and when the aforesaid fact came to his notice, he filed supplementary affidavit bringing on record the written report of the informant of the aforesaid case. It is further contended by him that except the present case as well as Bhabua P.S. case no. 205/2014, there is no any other criminal antecedent of the petitioner.

Learned counsel appearing for the informant submits that the petitioner had suppressed material fact and when this matter was brought to notice of this court, petitioner filed supplementary affidavit. It is further contended by him that moreover, prayer for bail of co-accused Uma Singh @ Uma Shankar Singh having similar allegation has already been rejected twice by a coordinate bench of this court and it is further contended by him that in Bhabua P.S. case no. 205/2014 petitioner was made accused and the aforesaid case has not been brought on record by the petitioner.

Learned counsel for the petitioner refuted the above stated submissions arguing that in Bhabua P.S. case no. 205/2014, no charge sheet was submitted against the petitioner which is evident from annexure 3 series to the supplementary affidavit filed on behalf of the petitioner and so far rejection of prayer for bail of co-accused Uma Singh @ Uma Shankar Singh is concerned, prayer for bail of co-accused Uma Singh @ Uma Shankar Singh was rejected on 21.11.2013 passed in Cr. Misc.no.43908/2013 because some facts



were suppressed by him and again, when co-accused Uma Singh @ Uma Shankar Singh approached this court for bail suppression of real fact was haunting to the mind of the court and that was the reason coordinate bench of this court, again, rejected the prayer for bail of co-accused Uma Singh @ Uma Shankar Singh though trial court was directed to conclude the trial within nine months. It is further contended on behalf of the petitioner that so far as the petitioner is concerned, in course of investigation, prosecution witnesses made contradictory statements in respect of presence of the petitioner on the place of occurrence.

Considering the aforesaid facts and circumstances as well as submissions of the parties, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Kaimur at Bhabua in Bhabua P.S. Case no. 300/2013 subject to the conditions that petitioner shall attend the learned trial court in person on each and every date for the period of nine months or till conclusion of his trial whichever is earlier and if he fails to do so on three consecutive dates without any reasonable explanation or makes any attempt to tamper with the prosecution evidence, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner after due and proper enquiry.

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(Hemant Kumar Srivastava,J)

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