

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.6251 of 2015

Arising Out of PS.Case No. -2 Year- 2003 Thana -C.B.I CASE District- PATNA

1. Maheshwar Mahto S/o Late Nathuni Mahto, resident of village - Mustafapur, P.S. Bibhutipur, Distt.- Samastipur, the then Dy. S.P. Manjhaul under District Begusarai, A/p residing at Kabirchak, P.S. Sadar Darbhanga, Bihar.

.... Petitioner/s

Versus

1. Director, CBI, through Superintendent of Police, CBI S/c Iv (iii) New Delhi

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shubro Sanyal, Advocate
Mr. Gautam Shah

For the Opposite Party/s : Mr. Bipin Kumar Sinha (SC/CBI)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

5 12-05-2015 Heard both sides.

The petitioner seeks bail in Cheriabariyarpur Majhaul P.S.Case No.130 of 2002 (S.Trial No.1402 (A) of 2007) registered under Sections 302, 307 and 34 of the Indian Penal Code.

The informant Rajiv Ranjan made allegation that the petitioner being the Dy. S.P. at the relevant time ordered to fire and on such, the Constables and the petitioner himself made indiscriminate firing causing death of two persons, namely, Rajesh Kumar and Rajni Ranjan. Lateron, the case was handed over to C.B.I, in which charge sheet was submitted against the petitioner and others.

Mr. Shubhro Sanyal, learned counsel appearing for the petitioner submits that the petitioner Mahendra Mahto was Dy.S.P. at the relevant time. The petitioner was not even present at the

spot. K.P.Ramaiya, the then IAS Officer and District Magistrate of Begusarai reported (Annexure-4) that Dy. S.P. (Petitioner) was not present at the place of occurrence rather he was in the office. It is further submitted that the dead body was bearing charring injuries and the allegation is that the firing was made from a quite distance. Such injuries can not be caused from firing from long distance. The petitioner is in jail since 18.10.2014 and all other accused persons have already been enlarged on bail.

Mr. Bipin Kumar Sinha, learned counsel appearing for the C.B.I. vehemently opposes the prayer for bail and submits that the prosecution witnesses have very categorically stated that the petitioner fired from rifle on innocent persons alleging that they were members of gang of Dilip Singh. The Constables and the petitioner himself made indiscriminate firing in which two persons were killed and many were injured. The driver of the vehicle was also injured.

It is further submitted that an award was announced for the arresting of the petitioner and only thereafter, the petitioner was arrested on 18.10.2014. Other accused persons were in jail for a long period and only thereafter they have been enlarged on bail.

It appears that the petitioner, being Dy. S.P. at the relevant time, without any provocation or threatening, ordered for firing and he himself made firing killing two persons moving in the vehicle and other occupants of the vehicle were injured. Even after submission of charge sheet, the petitioner was absconding for years. Ultimately, his trial was separated from the trial of other accused persons and 40 witnesses of the prosecution have already been examined.

Considering the facts aforesaid and nature of allegation,

I am not inclined to enlarge the petitioner on bail and accordingly, the same is **rejected**.

The trial court is directed to expedite the trial and conclude the same within a period of nine months from the date of receipt or production of a copy of this order. If the trial is not concluded within the stipulated period, the petitioner may renew his prayer for bail after nine months.

(Prabhat Kumar Jha, J)

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