

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18461 of 2015

Arising Out of PS.Case No. -115 Year- 2013 Thana -PATNA GRP CASE District- PATNA

1. Gautam Yadav @ Gautam Kumar Son of Ram Jatan Yadav R/o Village-
Sita Kund Dih, P.O.- Dariyapur, P.S. - Moffasil , District- Munger.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 01-07-2015

Heard learned counsel for the petitioner and the State.

The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Sections 419, 420, 467, 468, 471, 489 (A) (B) (C), 120B of the Indian Penal Code and 25(1-B)a , 26, 35 of the Arms Act.

The petitioner earlier preferred an application for bail vide Cr. Misc. No. 39447 of 2014 which was disposed of on 02.03.2015, in view of the ratio laid down by the Division Bench of this Court in Cr.W.J.C. No. 487 of 2014 (Aasif P.K. Alias Md. Aaripha alias Aasif alias Md. Aasipha alias Md. Aasif alias Aarif Vs. The State of Bihar and Others) , reported in 2015 (1) P.L.J.R. 1017, wherein it is held that the cases registered for the offences under the schedule of N.I. A. Act, the application under Section 437 Cr.P.C. can be



preferred before Special Judge or District Judge and appeal under Section 21(4) of The N.I.A Act, 2008 before the Division Bench of this Court against the order of Special or Division Judge since the case was registered under Section 489 (A) (B) (C) of the Indian Penal Code, which is included in the schedule of The N.I. A. Act hence, the earlier application was disposed of. The ratio laid down by the Division Bench has been obliterated by a judgment delivered by a Full Bench of this Court in case of Criminal Appeal No. 149 of 2015 (Badahur Kora Vrs. The State of Bihar & other analogous cases) reported in 2015 (2) P.L.J.R. 289, wherein it has been held that the offence schedule under The N.I.A. Act can be governed by the provisions of the Act only when investigating of Scheduled offences is taken up by the N.I.A. or the N.I.A. with permission of the Central Government transfers the investigation to State Government. Hence the present application for bail U/Ss. 439, 440 of the Cr.P.C.

The prosecution case is that from the possession of co-accused Aman Kumar arms along with 96 counterfeit currency notes of Rs.1,000/- in denomination total of Rs. 96,000/- were recovered, whereas from co-accused Sunil Kumar apart from the arms fake currencies and 188 counterfeit currency of 500 denominations were recovered total amounting to Rs. 94,000/- which suggests that the fake currencies notes were supplied by the petitioner.

It is submitted by the learned counsel for the petitioner that admittedly the recovery was not been made from the petitioner. Statement has been made in para-3 of the petition that petitioner has no criminal antecedent, whereas the impugned order suggests that paragraph-27 of the case diary suggests that the petitioner was earlier sent to jail at Calcutta in an Arms Act case.

Considering the fact that the recovery has not been made from the petitioner, let the above named petitioner, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Railway Judicial Magistrate, Patna in connection with Patna Rail Thana Case No. 115 of 2013.

(Dinesh Kumar Singh, J)

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