

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.18652 of 2015

Arising Out of PS.Case No. -108 Year- 2013 Thana -KUNDWACHAINPUR District-
EASTCHAMPARAN(MOTIHARI)

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Arun Kumar Thakur @ Arun Thakur, son of Rama Kant Thakur

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

9 23-06-2015

Heard learned counsels for the petitioner and the State.

The petitioner is languishing in jail since 24.10.2013 in a case registered for the offences punishable under Sections 25(1-a) (1-B), a/26, 35 of the Arms Act and 13, 15, 16, 18, 20 of the Unlawful Activities (Prevention) Act 1967.

It appears that initially the bail application was filed vide Criminal Miscellaneous No. 18652 of 2014 which was converted into an Appeal being Criminal Appeal (DB) No. 96 of 2015 in pursuance to order dated 24.12.2014 passed by a co-ordinate Bench of this Court in view of the ratio laid down by the Division Bench of this Court in Cr.W.J.C.487 of 2014 [*Aasif P.K. vs. The State of Bihar* reported in *2015(1) PLJR 1017*] to the effect that the case registered for scheduled offences under the NIA Act the bail application lies under Section 437 Cr. P.C before the Special Judge or District Judge and against the order of Special



Judge or District Judge appeal lies under section 21[i] of NIA Act before Division Bench of High Court. Subsequently, in view of the ratio laid down by the Full Bench of this Court in Criminal Appeal No. 149 of 2015 [*Bahadur Kora v. The State of Bihar* reported in **2015 (2) PLJR 289**] and other analogous appeals wherein it was held that unless the investigation of a case is undertaken by the N.I.A. or the N.I.A. has transferred investigation to the State Investigating Agency, the provisions of the National Investigation Agency Act will not apply to the cases registered under the scheduled offences under the N.I.A. Act. Hence, the appeal of the petitioner was again permitted to be converted into criminal miscellaneous application as in the instant case the investigation has been undertaken by the NIA or transferred the investigation to the State Government. Hence, the present application.

Prosecution case is that the house of the petitioner was raided when one Jahir Madari was arrested from out side house with AK-56 rifle with magazine containing 20 live cartridges along with 40 cartridges in two magazines were recovered two persons namely Nanhak Paswan, Vidya Mahto along with the petitioner were apprehended from the house leading to recovery of pistol and cartridges from the co-accused and 30 live cartridges of AK-56 rifle, mobile and Naxal literature from the bag of the

petitioner.

It is submitted by learned counsel for the petitioner that petitioner is a doctor and he was offering treatment to the accused persons and the police have maliciously shown the seizure from the bags of the petitioner. The petitioner has no criminal antecedents as stated in paragraph 3 of the petition and the investigation has already concluded. The accused Vidya Mahto from whom arms and cartridges were recovered have been granted bail vide Criminal Miscellaneous No. 14382 of 2014

Considering the period in custody and the fact that the petitioner has no criminal antecedent, let the above named petitioner be released on bail, on furnishing bail bonds of ₹10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sikrahana at Motihari in connection with Kundwa Chainpur P.S. Case No.108 of 2013.

(Dinesh Kumar Singh, J)

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