

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18943 of 2015

Arising Out of PS.Case No. -35 Year- 2012 Thana -DUMARIA District- GAYA

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1. Nagina Yadav @ Nagina Jee Son of Samar Yadav Resident of Village :
Mahulaina, P.S. Dumaria, District : Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 22-07-2015

Heard learned counsels for the petitioner and the State.

The petitioner is languishing in custody since 17.6.2014 in a case registered for the offences punishable under Sections 147,148,149,341,324,353,325,326,307,302,435 and 120B of the Indian Penal Code, section 27 of the Arms Act, sections 3,4 and 5 of Explosive Substances Act and sections 10,11 and 13(i),13(ii) of the Unlawful Activities Prevention Act, 1967.

Earlier bail application of the petitioner preferred under sections 439 and 440 Cr.P.C. was disposed of in view of the ratio laid down by 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 wherein it was held that if the alleged offence is one of the scheduled offences of NIA Act then the bail application under

section 437 Cr.P.C. is maintainable before the learned Special Judge or Sessions Judge and against the said order, appeal is maintainable before Division Bench of this court but the said ratio has been obliterated by a Full Bench of this court in the case of Bahadur Kora and ors. Vs. State of Bihar 2015(2) PLJR 289. Consequently, the present application has been filed.

The prosecution case is that when the police on information that miscreants are preparing to commit some serious offence, proceeded towards the place of occurrence, where due to firing and cross firing between the extremists and CRPF constables two miscreants and one constable were killed. The petitioner was named in the FIR on the basis of confession of apprehended accused Samarjeet Bhuiya.

It is submitted by the learned counsel for the petitioner that actually on suspicion the petitioner has been roped in the present case and the other FIR named accused persons Dhanik Lal Mandal alias Bhutali Yadav has been granted bail vide Cr. Misc. No. 20132 of 2015.

Considering the aforesaid facts, let the above named petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Sherghati, Gaya in connection with

Dumaria P.S. Case No. 35 of 2012.

Considering the criminal antecedent of the petitioner, the learned court below shall be at liberty to cancel the bail bonds of the petitioner in case the petitioner gets involved in serious offence or defaults without any reasonable cause on three consecutive occasions.

(Dinesh Kumar Singh, J)

Anil/-

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