

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.52880 of 2015

Arising out of Case No. -2824 Year- 2011 Thana -VAISALI COMPLAINT CASE District-
VAISHALI (HAJIPUR)

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Jay Prakash Paswan, son of Jay Nandan Paswan, resident of Village- Chandralaya,
P.S. Hajipur Sadar, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Somariya Devi, W/o Nandan Rai, R/o Village- Chandralaya, P.S. Hajipur Sadar, District- Vaishali.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vndhyakeshri Kumar, Sr. Adv. with
Mr. Neeraj Kumar Alias Sanidh

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

2 15-12-2015 Heard Mr. Vindhyakeshri Kumar, learned senior

counsel appearing for the petitioner and Mr. Shyameshwar

Dayal, learned Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection
with Complaint Case No.2824 of 2011 (Tr. No.3621 of 2013)
arising from Hajipur Sadar P.S. Case No.372 of 2008 for the
offences punishable under sections 147, 148, 149, 302 of the
Indian Penal Code and section 27 of the Arms Act.

The petitioner along with others was charged with
the murder of the son of the informant. The petitioner was
attributed the role of the order giver.

Mr. Kumar, learned senior counsel appearing on
behalf of the petitioner referred to an order of this Court present



at Annexure-5 to submit that the main accused of the case who was charged with murder was granted anticipatory bail by this Court in Cr. Misc. No.6178 of 2009. However, even while making such submission Mr. Kumar has admitted that the anticipatory bail petition of the petitioner was rejected in Cr. Misc. No.11998 of 2009 with a direction to the petitioner to surrender and pray for regular bail. It is stated that the final form was submitted in the police case finding the case untrue and whereupon a protest was filed which has been registered as the complaint case in question and the Magistrate has proceeded to take cognizance in the matter. Appreciating his earlier rejection it is argued that since the present case arises out of the complaint case with the police case reaching its finality hence the petitioner has a case of consideration in view of the subsequent development.

In my opinion the submission made by learned senior counsel is not acceptable for the allegation against the petitioner remains the same. Even if it translates in the complaint case, considering the rejection by this Court on appreciation of the allegation, this Court finds it difficult to re-consider the prayer for anticipatory bail of the petitioner on the grounds of subsequent developments.

In view of the order passed by this Court in Cr. Misc. No.11998 of 2009 granting liberty to the petitioner to surrender and pray for regular bail, no fresh order needs to be given and the petitioner should abide by the earlier directions and considering the developments in the matter and the nature of allegations let the prayer for regular bail be considered on its own merits and be disposed of by the court below without being prejudiced by the earlier orders.

The petitioner would be at liberty to rely upon the orders passed in the earlier case.

(Jyoti Saran, J)

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