

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37297 of 2015

Arising Out of PS.Case No. -225 Year- 2013 Thana -BAHADURPUR District- DARBHANGA

Hawaldar Nek Mohammad Khan @ Nek Mohammad Khan, son of Late Mohiullah Khan, resident of Village- Pandri, Police Station- Dhaka, District-East Champaran, presently posted as Hawaldar Major, P.S. Jay Nagar, District Madhubani

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Syed Ashfaque Ahmad, Advocate

For the Opposite Party/s : Mr. Matloob Rab(APP)

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 21-12-2015 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in connection with Bahadurpur P.S. Case No.225 of 2013 for allegedly having committed the offence under Sections 109, 120B, 406, 409, 420, 468, 469, 471 and 470 of the Indian Penal Code.

Learned counsel for the petitioner submits that on the death of one Sagar Honhanga on 23.11.2012, which appeared to be a case of suicide, an inquiry was conducted regarding disappearance of cartridges from B.M.P.-13 by the Commandant, B.M.P. 13. It was directed that one Ram Singh



should take over charge of the Store and one Ram Prabhakar Choudhary was directed to hand over charge after preparing inventory. Learned counsel for the petitioner further submits that during preparation of the inventory, it was found that cartridges of 9 mm numbering about 1182 were missing from the Reserve Stores and other cartridges were found in excess. Noticing the discrepancies, an inquiry was conducted, which resulted in the report dated 26.5.2013, being Annexure 2 to the present application. Learned counsel for the petitioner further submits that so far as the present petitioner is concerned, the only allegation against him is that he had been deputed along with said Sagar Honhanga as a Havildar in the said Store and there is no further allegation against him. He further submits that the report indicates that the discrepancies were during the periods 2008 to 2011 and also 2012, but the major portion of the discrepancies was during the period of Ram Eqbal Pandey and not that of Sagar Honhanga. So far as this petitioner is concerned, he is neither concerned with the entries made nor has he concern with the incoming or outgoing process of receipt or issuance of the cartridges of Store. His role is confined to the protection of the Store as a Havildar.

Learned counsel for the State has perused the case

diary.

Considering the fact that most of the periods involved related to the period of said Ram Eqbal Pandey and the petitioner was posted only during the period of Sagar Honhanga, who had during his tenure itself indicated that there was some discrepancy, which had come down from the earlier period and that this petitioner has no further role in the receipt or issuance of the cartridges, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, 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 the learned Chief Judicial Magistrate, Darbhanga, in connection with Bahadurpur P.S. Case No.225 of 2013, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that the petitioner, being a responsible Havildar, shall present himself for interrogation and also during the process of trial, as and when required. It is further made clear that if the petitioner abstains from attending the court during the course of the trial for two consecutive

dates, either in person or through his Counsel, without any reasonable cause, it shall be open to the court below to take appropriate action, in accordance with law.

(Anjana Mishra, J)

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