

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.16632 of 2015

Arising Out of PS.Case No. -140 Year- 2013 Thana -GOH District- AURANGABAD

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Jitendra Das @ Prem Ranjan Son of Late Sheo Sharan Das, Resident of
Village - Korap, P.S. - Anti, District - Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Parmeshwar Mehta(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 17-02-2016 The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Sections 302, 307, 326, 324, 379, 427, 435, 353, 147, 148 and 149 of the IPC, Section 27 of the Arms Act, Section 3/4 of the Explosive Substances Act, Section 17 of the Criminal Law Amendment Act and Sections 10, 16, 17, 18, 19 and 20 of The Unlawful Activities (Prevention) Act.

Earlier bail application of the petitioner was disposed of vide Cr. Misc. No. 43257 of 2014 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. @ Md. Aaripha@ Aasif@ Md. Aasipha@ Md. Aasif@ Aarif Vs. The State of Bihar and others** reported in **2015(1) PLJR, 1017** whereunder it was held that if the case is registered under the schedule offences of National Investigation



Agency Act, 2008 then the application under Sections 439 and 440 of the Cr. P.C. is not maintainable as the order of Special Judge or Sessions Judge under Section 437 Cr. P.C. appeal lies before Division Bench of this Court. The Section 2(1)(g) of National Investigation Agency Act, 2008 defines scheduled offence as offence specified in the schedule. The Unlawful Activities (Prevention) Act, 1967 is time No.2 in the schedule of the NIA Act. The above ratio was unsettled by judgment delivered by the Full Bench of this Court in the case of Bahadur Kora & Ors Vs. The State of Bihar reported in 2015(2) PLJR 289. Hence the present application under Section 439 and 440 of the Code of Criminal Procedure.

The prosecution case is that SHO of Goh police station alleged that the informant along with 29 constables were on duty at MBL construction company base camp Gazapur under Goh police station when the miscreants came on four vehicles and they started indiscriminate firing. Police forces initially did not perceive the miscreants as extremist as they were dressed in the uniform of Army forces but subsequently the police force realized that it is an extremists attack and resorted to fire. The miscreants also hurled two granites but it could not explode. Due to firing



made by the extremists, 8 police personnel died and 11 vehicles of MBL construction company were set on fire. It is also alleged that extremists on the way also killed the driver of a Tata 407 vehicle also. Consequently, the FIR was lodged against 250-300 unknown. The petitioner was apprehended on suspicion when the petitioner confessed his guilt to be a part of the extremists attack.

It is submitted by learned counsel for the petitioner that except confession of the petitioner, there is nothing against the petitioner. It is further submitted that similar situated accused Ramashish Paswan and Shabir Paswan have been granted bail by a co-ordinate Bench of this Court vide Cr. Misc. No. 17333 of 2014. Though the petitioner is accused in five other cases but he is on bail in those cases, statement to that effect has been made in para 3 of the petition.

Learned A.P.P. after going through the case diary, concedes that except confession of the petitioner nothing more has been collected during investigation and the investigation has already concluded.

Considering the fact that investigation has concluded and except confession, nothing has been collected against the petitioner during investigation there is no recovery from the

petitioner nor he has been put on T.I. parade, let the above named petitioner be released on bail, on furnishing bail bond of `10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned SDJM, Daudnagar, Aurangabad in connection with Goh P.S. Case No. 140 of 2013.

Considering the criminal antecedent of the petitioner, learned court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for two consecutive occasions or gets involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

Amrendra/-

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