

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.22629 of 2015

Arising Out of PS.Case No. -183 Year- 2013 Thana -BHAGWANPUR District-
VAISHALI(HAJIPUR)

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1. Abhineswar Kumar Pandey @ Nanhe Pandey son of Awadesh Pandey
Resident of village Ambara, P.S. Saraiya, District Muzaffarpur at present
village Ratanpura, P.S. Bhagwanpur, District Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S.N.P. Sinha, Sr. Advocate
Mr. Mukesh Kumar, -Advocate

For the Opposite Party/s : Mr. Shailendra Kumar 2 (App)

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 24-02-2016

Seen the report submitted by the Registrar General,

Patna High Court in compliance of order dated 13.01.2016 and the
same is accepted.

2. Heard learned counsel for the petitioner as well as
learned APP assisted by learned counsel for the informant.

3. Received an explanation furnished by the learned
lower court through District & Sessions Judge, Vaishali at Hajipur
and the grounds so enumerated therein, more particularly, with
regard to absence of co-accused, Harivansh Chaudhary @
Shwetambar Chaudhary, leading to delay in commitment, the
same is accepted.

4. The case has been committed fixing 12.08.2016 as
a next date.



5. It has been submitted on behalf of the petitioner that upto now, charge has not been framed and in the aforesaid background, the petitioner be released on bail. It has also been submitted that non production of petitioner happens to be on account of his ailment and so, to have proper treatment of his ailment, he is required to be released on bail. Apart from this submissions, it has also been submitted that there happens to be specific disclosure at the end of bodyguard of the petitioner that he fired in his self-defence which might have caused injury to the deceased. Therefore, right of private defence does exist.

6. The learned APP assisted by learned counsel for the informant have opposed the prayer and submitted that medical ground has purposely been taken after taking the jail authority into confidence.

7. Be that as it may, the jail authority, Hajipur, Vaishali is directed, to produce the petitioner in the court under the guidance of jail doctor and the learned lower court, in likewise manner, will direct other co-accused to be physically present to facilitate framing of charge which should be framed on the next date positively.

8. With regard to medical treatment, in case so needed, the jail authority, Hajipur Vaishali will take appropriate steps

whereunder petitioner be given medical facilities at the cost of the State being under judicial custody which should be monitored by the learned lower court itself, so that a false plea should not continue for his absence delaying the trial.

9. With regard to merit of the case, whatsoever submitted by the learned counsel for the petitioner, has already been taken into consideration while rejecting the prayer for bail vide order dated 05.12.2014 passed in Cr.Misc. No. 36015/2014.

10. There happens to be no cogent reason to reconsider the same and on account thereof, prayer of the petitioner for bail is rejected.

11. Office is directed to serve a copy of this order upon the learned lower court to facilitate the strict compliance thereof.

(Aditya Kumar Trivedi, J)

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