

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 27965 of 2015

Arising Out of PS.Case No. -129 Year- 2013 Thana -GOH District- AURANGABAD

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Awadhesh Yadav Son of Late Ramanand Yadav, resident of Village Gamhari, P.S.
Goh, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate
For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 02-09-2016

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in Goh P.S. Case No. 129 of 2013
dated 24.06.2013 instituted under Sections 147/ 148/ 149/ 323/ 324/
326/ 307/ 302 of the Indian Penal Code and 27 of the Arms Act.

This is the second attempt of the petitioner for bail as
earlier such prayer was rejected on 05.08.2014 passed in Cr. Misc. No.
27751 of 2014.

Learned counsel for the petitioner submits that though the
allegation against the petitioner is that he was possessing small firearm
and he along with others, who were possessing other firearms, had
made indiscriminate firing on the son of the informant who died, but as
per the plain reading of the F.I.R. itself it would transpire that the
informant was a hearsay witness inasmuch as it is alleged in the F.I.R.



that on seeing the mob, the deceased started running and the petitioner along with others fired resulting in his death but the postmortem report discloses that there were three wounds, one lacerated with inverted margin on the vertex of the head and the second was multiple lacerated wound on the front of the face and the third a lacerated wound with blackening and inverted margin on right shoulder, all caused by firearm. It is submitted that the blackening and the injuries being on the front clearly indicate that the story as narrated in the F.I.R. cannot be believed inasmuch as if the deceased was running and fired upon, the injuries would have been on his back. Learned counsel submits that similarly situated co-accused have been granted bail earlier and initially this Court has rejected the prayer due to the fact that the other co-accused were granted bail as they were in custody since 25.06.2013, whereas the petitioner was in custody since 15.04.2014 and now as almost two years have passed after the rejection order, the petitioner deserves bail. It is further submitted that the petitioner has no criminal antecedent.

Learned counsel further submits that Rajendra Bind, a similarly situated co-accused, whose prayer for bail was once rejected has been granted bail in the second attempt by order dated 04.07.2016 in Cr. Misc. No. 17215 of 2015.

Learned A.P.P. opposes the prayer for bail. However,

he is not in a position to controvert the submissions of learned counsel for the petitioner.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST, Aurangabad in S. Tr. No. 117A /14/65/14 arising out of Goh P.S. Case No. 129 of 2013. The petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner. The petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate and appear on each and every date in the trial and failure to do so shall also lead to cancellation of his bail bonds.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A