

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12690 of 2015

Arising Out of PS.Case No. -186 Year- 2011 Thana -DARIYAPUR District- SARAN

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1. Navin Kumar Rai @ Navin Rai S/o Gunjeshwar Pd. Rai R/o village -
Rampur Jaiti, P.S. Dariyapur, District - Saran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh

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

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

10 27-07-2016

The petitioner has renewed his prayer for bail

in a case registered for the offences punishable under Sections
448, 324, 307, 302/34 of the Indian Penal Code and Section 27
of the Arms Act.

The prosecution case is that on 01.10.2011
one Shila Devi got her fardbeyan recorded in an injured
condition at Dighwara Hospital to the effect that on the same
day at 3:30 P.M she was sitting with her husband Ravindra Rai
when co-accused Sailesh Rai came armed with pistol and
resorted to fire upon the husband of the informant but it did
not cause any injury to him. Thereafter this petitioner resorted
to fire 2-3 rounds by rifle on the husband of the informant, as a
result the husband of the informant received injuries on the
lower portion of the abdomen and on the head. When the
informant went to rescue her husband the firing was resorted
to by co-accused Anil Rai which caused injury on the right

knee of the informant, thereafter the accused persons including the petitioner assaulted the informant with lathi and danda. Subsequently the husband of the informant succumbed to the injuries leading to registration of the present case.

It is submitted by learned counsel for the petitioner that accusation is not being corroborated by the medical opinion as the postmortem report reflects three external injuries of which injury No. 2 was found the cause of death on the left side of the chest caused by fire arm but the said injury does not appear to have been caused by the rifle. The rifle of the petitioner was never seized to ascertain that firing was actually made by the said rifle of the petitioner. There is also accusation of assaulting by lathi and danda but no such injury to that effect has been found. There is counter version of the occurrence also. It is further submitted that petitioner was granted provisional bail on the eve of the marriage of the sister of the petitioner vide order dated 29.04.2015 for a period of six weeks and petitioner had shown his bona fide by surrendering before learned Court below before expiry of the period of provisional bail.

The petitioner is languishing in custody since 19.09.2012. The charges were framed on 20.03.2014 but till date out of eleven chargesheeted witnesses only three witnesses have been examined and even the informant did not bother to get herself examined till date.



The petitioner's initial bail application was rejected by this Court vide order dated 17.06.2013 passed in Cr. Misc. No. 5834 of 2013. Thereafter the petitioner's bail was again rejected vide order dated 30.04.2014 passed in Cr. Misc. No. 35728 of 2013 with a direction to the learned Court below to conclude the trial within a period of nine months with observation that if the trial would not be concluded within the said period due to no latches on the part of the petitioner then this Court would be constrained to pass appropriate order. But, in spite of the said direction, the report of the learned In-charge, Additional Sessions Judge-I, Saran at Chapra dated 28.06.2016 reflects that only three witnesses have been examined since the trial Court is vacant since 16.05.2016. The report of the Superintendent of Police, Saran at Chapra dated 27.07.2016 also reflects that only three out of eleven chargesheeted witnesses could be examined due to non-availability of the concerned Trial Court.

In the circumstances discussed above, it appears that prosecution failed to examine the witnesses in spite of direction of this Court dated 30.04.2014 passed in Cr. Misc. No. 35728 of 2013 to conclude the trial within a period of nine months. The trial is held up due to non-availability of the trial court. In the circumstances, there is no likelihood of conclusion of trial in near future. Hence, this Court is reluctantly directing the petitioner to be released on bail. Let

the petitioner, above named, 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 learned Achoc Additional District & Sessions Judge-IV, Saran at Chapra in connection with Dariyapur P.S. Case No. 186 of 2011, Sessions Trial No. 812 of 2012 with condition that one of the bailors will be a government servant.

It is submitted by learned counsel for the petitioner that father of the petitioner is a government servant, hence he will be one of the bailors.

Learned Trial Court will positively cancel the bail bond of the petitioner, if the petitioner defaults for two consecutive occasions or gets himself involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

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