

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2883 of 2016

Arising Out of PS.Case No. -5 Year- 1999 Thana -MEHANDIA District- JEHANABAD

Vijay Sharma, son of Hira Singh, Resident of Village- Parampura (Dhobi Bigha), Police Station- Rampur Chaura, District- Arwal.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

with

Criminal Miscellaneous No.3750 of 2016

Arising Out of PS.Case No. -5 Year- 1999 Thana -MEHANDIA District- JEHANABAD

Kamlesh Bhatt @ Bhoda Bhatt Son of Late Sunderdeep Bhat resident of village - Balibagh, P.S. Charpokhari, District – Bhojpur.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party.

Appearance :

(In Cr.Misc. No.2883 of 2016)

For the Petitioner/s : Mr. Binod Kumar Singh

For the Opposite Party/s : Mr. Sadanand Paswan (Spl. Pp)

(In Cr.Misc. No.3750 of 2016)

For the Petitioner/s : Mr. Binod Kumar Singh

For the Opposite Party/s : Mr. Ram Shankar Das(Spl.App)

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

5 08-04-2016 Both the aforesaid applications arise out of the Mehendia P.S. Case No. 05 of 1999 registered under Sections 147, 148, 149, 302, 307 and 324 of Indian Penal Code, Section 27 of Arms Act and Section 3(2)(V) of SC/ST Act. Therefore, both the aforesaid applications have been heard together and are being disposed of by this common order.

The allegation of informant, namely, Jamuna



Rajbansi son of Julmi Rajbansi is that on 25.01.1999 at 8.30 P.M., he along with his brother Jamuna Rajbansi after taking the dinner, was moving towards north, when they reached at Bajrang Asthan, 30-40 persons, including 23 named in the F.I.R. with petitioner were seen variously armed with weapon raising slogans "*Lal Salam*". The informant was caught by them with threatening to not raise any alarm. They were followers of Ranvir Sena and they carried him and his brother near the *Dalan*. Further case of the prosecution is that informant along with his brother entered in the *Dalan*. Thereafter, they started firing in which 19 persons are said to be shot dead.

Learned counsel appearing on behalf of the petitioner Vijay Sharma submits that while the petitioner is named in the F.I.R. being the member of the Ranvir Sena without any overt act against the petitioner. Further submission is that 24 accused persons faced trial vide Sessions Trial No. 44 of 2005 and all have been acquitted vide Judgment dated 13.01.2015 by the Court of Addl. Sessions Judge-1st, Jehanabad. Further submission is that in Sessions Trial No. 71 of 2014, relating to this petitioner, 12 witnesses including Jamuna Rajbansi, brother of the informant have been examined, but they have not supported the case of the prosecution in respect of the

petitioner, Vijay Sharma, who having no criminal antecedent is in custody since 01.10.2014.

Further submission is that the petitioner Kamlesh Bhatt @ Bhoda Bhatt is not named in the F.I.R. and his name was transpires in course of investigation in paragraph no. 130 of the supplementary case diary on 06.02.1999, after two years of the occurrence, because the petitioner was accused in Mehendia P.S. Case No. 126 of 1997 in which the petitioner and others have already been acquitted. The petitioner is in custody since 13.11.2005.

Having regard to the facts and the circumstances of the case, let the petitioner Vijay Sharma and Kamlesh Bhatt @ Bhoda Bhatt be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Addl. Sessions Judge-Ist, Jehanabad respectively in Sessions Trial No. 71 of 2014/446 of 2014 and Sessions Trial No. 303 of 2005/45 of 2005, arising out of Mehendia P.S. Case No. 05 of 1999. Out of two sureties, one surety must be the close relative of the petitioners, who will file an affidavit showing his relation with the petitioners, who will undertake that they will furnish the correct address of the petitioners in case of change of the address and further the

petitioners shall remain present on each and every date during the course of the trial in the court below. If the petitioners fail to remain present on two consecutive dates during the course of the trial without any reasonable cause being shown, the court concerned would be at liberty to take steps for cancellation of their bail bonds.

(Rajendra Kumar Mishra, J.)

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