

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15270 of 2016

Arising Out of PS.Case No. -55 Year- 2009 Thana -BEUR District- PATNA

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Kanjay Kumar @ Kanjay Singh, S/o Charitra Singh, R/o Village - Ladma,
P.S. - Barh, District - Patna

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ambuj Nayan Chaubey, Advocate

For the Opposite Party/s : Ms. Suman Kumari Singh (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 06-05-2016 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The petitioner is apprehending his arrest in connection with Beur P.S. Case No.55 of 2009 for allegedly having committed the offence under Sections 302, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act, pending in the court of Ms. Savita Rani, Judicial Magistrate, 1st Class, Patna.

Learned counsel for the petitioner submits that the petitioner is wholly innocent and is being prosecuted only on the basis of the materials extraneous and which cannot be used against him. It is submitted on behalf of the petitioner that initially the petitioner was named in the F.I.R., but on



investigation, the petitioner was not chargesheeted whereas other named accused were sent up for trial. It is further submitted on behalf of the petitioner that during the course of investigation, the call details, which came on record, did not indicate that the petitioner was at the place of occurrence nor was communication made to the so-called Anant Da nor do the call details correlate with the allegation as made out in the F.I.R. It is submitted on behalf of the petitioner that though the occurrence is of the year 2009, the petitioner is now sought to be prosecuted on the basis of subsequent investigation and facts, which have surfaced in the case diary. He thus submits that the petitioner is entitled to an interim protection as there are no sufficient materials placed on record to proceed against the petitioner.

Case diary in the present case was called for, which has since been received.

Learned counsel appearing on behalf of the State submits that the allegation against the petitioner is serious and his complicity in the offence cannot be ruled out. It is submitted that in the F.I.R., there is a clear allegation that indiscriminate firing was made by five persons and at the time of firing, the petitioner was found to be speaking on phone



informing the said person by the name, Anant Da, that the work had been done. It appears from the record that all the named accused persons were chargesheeted whereas the investigation against the petitioner was kept pending and further investigation had been ordered in his case. It also appears from the case diary, as submitted by the learned counsel for the State, that the petitioner has been declared an absconder in the year 2009 itself. Subsequent investigation has also revealed that the petitioner's complicity cannot be ruled out and the Superintendent of Police in his report has also submitted that only on the basis of inference drawn by the previous investigation that the petitioner's call detail was not at Patna but at Barh, the petitioner had not been chargesheeted. However, the complicity of the petitioner cannot be ruled out, Investigations in the given situation have revealed that such tactics of leaving phones has become quite prevalent. It has been stated in the said report of the S.P. that the investigation was, in fact, completely pointing out towards the complicity of the petitioner and that he should be sent up for trial.

After considering all the facts and circumstances and the materials which have appeared in the case diary and above all the fact that the petitioner is absconding since 2009, I am

not inclined to grant anticipatory bail to the petitioner. It is, accordingly, rejected.

However, in view of the fact that other co-accused persons have been extended the privilege of regular bail, it is directed that if the petitioner surrenders in connection with the present case within a period of four weeks in the court below and prays for bail, his case may be considered on its own merits without being prejudiced by the present order.

(Anjana Mishra, J)

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