

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28482 of 2016

Arising Out of PS.Case No. -300 Year- 2013 Thana -BHABHUA District- BHABHUA (KAIMUR)

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1. Nagina Singh son of late Dev Sharan Singh, resident of village Bhabua,
Ward No. 23, P.S. Bhabua, District Kaimur (Bhabua)

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Sri Ramchandra Sahani

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

6 09-11-2016

Record is placed for passing the order.

I have already heard the parties.

The petitioner is languishing in jail custody in a case registered under Sections-302, 120(B), 34 of the Indian Penal Code and 27 of the Arms Act. The petitioner is named in the first information report with specific allegation that he opened fire on the deceased after the firing of co-accused, Sonu Singh and thereafter, one co-accused Munna Kumar, too, made firing on the deceased.

Learned counsel, appearing for the petitioner submits that after due investigation, the petitioner was not sent up for trial as he was found innocent and, accordingly, police submitted final form in respect of the petitioner but the learned court below

differed with the findings of the police and took cognizance of the offence against the petitioner also.

It is further submitted that in course of investigation, independent witnesses vide paragraph No. 27 & other paragraphs of the case diary, have stated that it was co-accused Sonu Singh who opened fire on the deceased and the independent witnesses have not named the petitioner. It is further submitted that except the informant and some partisan witnesses, not a single independent witness stated about the participation of the petitioner in the alleged crime. It is further submitted that as a matter of fact, the son of the petitioner was murdered by the informant and his other family members, for which, they are facing trial and that is the reason of false implication of the petitioner in the present crime.

On the other hand, learned counsel appearing for the informant, vehemently, opposed the prayer pointing out that prayer for bail of other co-accused namely Munna Singh, Uma Singh and Sonu Singh, has already been rejected by different benches of this court. It is further submitted that the informant and some other eye witnesses have claimed to have seen the petitioner making fire on the deceased and, therefore, petitioner does not deserve the privilege of bail.

Regard being had to the facts and circumstances of the case as well as above submission of the parties, I am not inclined to release the petitioner on bail and accordingly, his prayer for bail in connection with Bhabua P.S. Case No. 300 of 2013 stands rejected, at least, at this stage.

However, the petitioner may renew his prayer for bail, if, his trial is not concluded due to laches of the prosecution within six months from the date of receipt/production of copy of this order.

(Hemant Kumar Srivastava, J)

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