

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51182 of 2016

Arising Out of PS.Case No. -81 Year- 2016 Thana -THARTHARI District- NALANDA
(BIHARSHARIFF)

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1. Naresh Prasad, son of Late Ram Lakhan Prasad, Resident of Village-
Tribhuwan Bigha, P.S.- Tharthari, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, A.P.P

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 30-11-2016 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner is languishing in jail since 25.07.2016 in a case registered for offences punishable under Sections 147, 148, 149, 504, 323, 324, 307, 302 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as lodged on the basis of F.I.R. is that on 24.07.2016 at 5 A.M. the informant along with Anjani Prasad and Guddu Sao had gone to plough their field and when they were digging the ridge of the field at 6.30 A.M. their neighbours (petitioner and other co-accused persons) armed with rifle, gun and lathi-danda came abusing, and opened fire upon the informant due to which the informant and others started fleeing away. It is also alleged that on the order of Dulli Prasad, co-



accused Ravindra Prasad fired from his pistol at Anjani Prasad and he fell down on the ground. After hearing sound of firing, Kameshwar Prasad, father of the informant came towards the place of occurrence, was also shot at by accused Ajay Prasad on the order of Dulli Prasad and other accused persons started assaulting by means of lathi, danda due to which the informant and Guddu Sao sustained injuries and head of Guddu was fractured. It is further alleged that on way to the Sadar Hospital, Bihar Sharif, the father of the informant succumbed to his injuries and other injured were referred to P.M.C.H.

Learned counsel for the petitioner submits that he is innocent and has no criminal history and there is civil dispute and for the same occurrence, the petitioner's side had also lodged Tharthari P.S. Case No. 82/2016 against the informant's side for the same occurrence on the same date and time. It is further submitted that no overt act has been alleged against the petitioner and at best he is alleged to be a member of unlawful assembly and further submits that specific allegation of killing by katta is against Ajay Prasad. It has further been submitted that charge sheet has already been submitted, hence there is no chance of tampering with the prosecution witnesses.

Learned A.P.P. for the State submits that the petitioner is named in the F.I.R., hence, opposes the prayer for bail.



Be that as it may, since there is no specific allegation against the petitioner as the allegation of killing is on co-accused Ajay Prasad and charge sheet has been submitted, hence the materials reveal that the release of the petitioner would not adversely effect his trial, hence in the interest of justice, let the petitioner above named, be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction learned Additional sessions Judge- III, Hilsa, District- Nalanda in connection with Tharthari P.S.Case No. 81 of 2016.

This is however subject to the condition that the petitioner will file an undertaking duly supported by his personal affidavit before the Trial Court and he will appear physically before the Court below on each and every date till the disposal of the case and in case of failure on two consecutive dates without giving any reasonable explanation, this liberty granted will be deemed to be cancelled.

With these observations and directions, this bail application stands allowed.

(Nilu Agrawal, J)

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