

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37886 of 2016

Arising Out of PS.Case No. -241 Year- 2015 Thana -BARH District- PATNA

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1. Chandan Kumar @ Chandan Singh @ Chandan Son of Umashankar
Sharma Resident of Village- Kamta , Police Station Hilsa, District Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Advocate

For the Opposite Party/s : Mr. A. Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

3 21-11-2016 Heard both sides.

The petitioner seeks bail in Barh P.S. case No. 241 of
2015 under Section 302, 201, 120B and other Sections of the
Indian Penal Code and under Section 27 of the Arms Act.

The father of the deceased named five persons,
namely, Chandan Singh S/o Krishna Prasad, Ravi Kumar S/o Uma
Shankar Vidyarthi, Kanhaiya, Bhushan Singh and Pratap Singh
S/o Bhisma Singh and two unknown and alleged that they all
forcibly kidnapped his son, Pawan Kumar @ Putus in a Scorpio
and on the next date his mutilated body was recovered.

The learned counsel for the petitioner submits that
petitioner is not named in the FIR. The name of the petitioner
figured in the case in paragraph 21 of the case diary in the



statement of Bullu Kumar and thereafter Dharmvir Kumar and Mohan Kumar Yadav also made same and similar statement naming the petitioner but all the three persons are not eye witnesses of the occurrence. At a very belated stage the name of the petitioner is taken by Mantu Yadav and Santosh Yadav in paragraph 175 and 176 of the case diary. They claimed to be eye witnesses of the occurrence but it is submitted that no reason has been given as to why they did not make their statement at the earliest. It is further submitted that all other accused persons, namely, Rishi Kumar, Ravi Kumar, Kanhaiya and Anant Singh have already been enlarged on bail vide orders passed by different Benches of this court. It is further submitted that prayer for bail of co-accused, Chandan Kumar, who is named in the FIR, has been rejected by this court vide order passed in Cr. 21265 of 2016 but the case of petitioner stands on better footing as that of other accused persons, who are either named or their names figured in the case later on. The name of the petitioner figured in the case at a very belated stage.

On the other hand, the learned counsel for the informant as well the learned Additional Public Prosecutor, vehemently, opposed the prayer for bail and submitted that Mantu Yadav and Santosh Yadav are eye witnesses of the occurrence and

they disclosed the name of the petitioner but it has not been explained that why Mantu Yadav and Santosh Yadav made their statement at a belated stage although they are eye witnesses of the occurrence.

Perused the FIR and the case diary.

It appears that petitioner is not named in the FIR. Firstly, name of the petitioner figured in the case in paragraph 83 of case diary from the mouth of co-accused Rishi Kumar. Bullu Kumar, Dharmvir Kumar, and Mohan Kumar made their statement in paragraph 21, 35 and 36 of the case diary and disclosed the name of petitioner and alleged that on account of union dispute the occurrence took place but they do not claim to be eye witnesses of the occurrence. Two witnesses came and made their statement only on 22.07.2015 and disclosed the name of petitioner and alleged that petitioner was also one of the persons, among other accused persons, who kidnapped the victim, Pawan Kumar @ Putus.

Considering the facts aforesaid and the nature of allegation made against the petitioner and the fact that other accused persons, whose case stands on same footing as that of petitioner, have already been granted bail, the above named petitioner is directed to be enlarged on bail on furnishing bail bond

of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, Barh, Patna in Barh P.S. Case No. 241 of 2015.

(Prabhat Kumar Jha, J)

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