

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42610 of 2015

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

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Anant Singh @ Anant Kumar Singh S/o Late Chandradeep Singh, Resident of Village- Nadawan, P.S. Barh, District Patna, At present- 1-Mal Road, P.S. Sachiwalaya, District Patna.

.... Petitioner.

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Nabin Kumar, Advocate.

For the Opposite Party : Mr. S. Dayal (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

8 08-03-2016 Heard the learned counsel for the petitioner, the learned A.P.P for the State as also the learned counsel for the Informant.

The petitioner seeks bail in a case for the offences punishable under sections 341, 323, 364, 506, 307, 302, 201 and 120 B of the I.P.C

Allegedly, when the informant Kapil Dev Yadav and his son Pawan Kumar @ Putus were returning after purchasing the house hold articles at 7.30 P.M., the FIR named five co-accused and two unknown being armed with pistol dragged Pawan Kumar @ Putus and boarded in a white colour Scorpio, they assaulted the informant with butt and further they kidnapped Pradeep Kumar



and Sonu Kumar also and went away towards the Village- Ladma, however, one boy succeeded in fleeing away and thereafter they left Pradeep and Sonu after assaulting them and killed Pawan Kumar @ Putus after strangulating and threw the dead body in a ditch near under-construction house. During investigation the informant in his statement under section 164 Cr. P. C. stated the name of the petitioner also as an accused and thereafter the witnesses Mantu Yadav and Satyendra Yadav stated the name of the petitioner that he was also present along with other named accused persons at the time of taking away the deceased. The call detail of the mobile of the petitioner was found near Gardanibagh (Patna) exchange.

Submission is of false implication due to the political rivalry, the informant in his further statement has not stated regarding involvement of the petitioner though he is an eye witness and was assaulted by the accused persons with butt, now the petitioner is being implicated by stating that he has conspired with other co-accused, so role assigned by the petitioner is self contradictory, the petitioner is being implicated only on the basis that he has got criminal antecedent, the statements of two witnesses have been recorded under section 164 Cr. P. C. after one month of the occurrence and without any legal and tangible

material the petitioner is suffering in custody since 05.08.2015.

The learned A.P.P. duly assisted by the learned counsel for the informant opposes prayer for bail by submitting that the two witnesses have stated the name of the petitioner in their statements recorded under section 164 Cr. P. C. that the petitioner was also present at the place of occurrence, but as a matter of fact it transpires that he has acted as the conspirator and at his dictation and direction the crime was committed and further he was talking with the co-accused at the time of occurrence. It has also come that the petitioner in his telephonic talk has stated that he has directed only to fracture the leg and hand of the deceased but the accused persons killed him and this has come during talk from the jail which is mentioned in paragraph-30 of the supplementary case diary dated 15.12.2015. It is also submitted that in view of decision of the Apex Court in the case of 'Neeru Yadav Vs. The State of U.P. & Anr.' the petitioner who has got criminal antecedent does not deserve bail.

In the facts and circumstances as stated above, considering that the petitioner is not named in the First Information Report, the informant being an eye witness has not stated the name of the petitioner that he was present at the time of the occurrence, whereas, after one month two witnesses have

come to say that the petitioner was also present at the place of occurrence and now it is claimed that the petitioner acted as conspirator and on his direction and dictation the crime was committed and as such considering the different version emerging during investigation, the petitioner appears to be released on bail. The decision relied upon by the learned A.P.P. is not helpful in the present case; here the facts of the case are on different footing. Accordingly, the above named petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of A.C.J.M. Barh in Barh P.S. Case No. 241 of 2015, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

Abhay/-

(Jitendra Mohan Sharma, J)

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