

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57676 of 2015

Arising Out of PS.Case No. -127 Year- 2011 Thana -MANIGACHI District- DARBHANGA

Nityanand Jha, son of Late Shubh Kant Jha, resident of Village-Bhandariso, P.S.- Manigachhi, District- Darbhanga.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13

For the Opposite Party/s : Mr. Surendra Pd.Singh(App)

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

4 24-10-2016 Heard Sri Manish Kumar No. 13, learned counsel for the petitioner and Sri Madan Kumar, learned Additional Public Prosecutor.

The petitioner who is in custody in Manigachhi P.S. Case No. 127 of 2011 initially registered for the offence under Section 394/ 302 of the Indian Penal Code and Section 27 of the Arms Act and subsequently Section 120(B) of the Indian Penal Code was added has prayed for grant of bail mainly on the ground that F.I.R. was lodged against unknown. He has further

tried to persuade the court that after investigation charge sheet was submitted against some accused persons and after trial two accused persons were imposed death sentence and one accused namely Kamlesh Jha against whom there was allegation similar to the petitioner was acquitted by the trial court as such a prayer has been made for grant of bail to the petitioner.

It has been argued that petitioner is in custody since December 2014. In this case prayer for bail of the petitioner was disposed of on 5.8.2015 by the learned 1st Additional Sessions Judge, Darbhanga. Since records were already available in the separated trial learned Sessions Judge without examining case diary had disposed of the prayer for bail. On 21.1.2016 while hearing the present petition this court noticed that in the bifurcated trial after conviction order Appeal was preferred and record of Lower Court was lying with the record of Criminal Appeal. Thereafter this court observed to examine the records. Subsequently original case diary which was available on the record of Cr. Appeal No. 437 of 2013 (D.B.) was examined.

Learned Additional Public Prosecutor submits that as per materials collected during investigation it appears that petitioner was the master mind.

Besides hearing I have also perused the materials



available on record. After examining the case diary it is evident that in the year 2011 itself after investigation charge sheet was submitted against the accused persons showing the petitioner as absconder. It is further evident that immediately after arrest of one of the co-accused who was one of the assailant search was conducted in the house of the petitioner however he was not found and since then he was absconding. Learned counsel for the petitioner accepts that petitioner was arrested in the year 2014. In the meanwhile the accused persons who were forwarded and in custody trial started and some accused persons were convicted and some acquitted. Thereafter Appeal was preferred. It is a case in which in a deep rooted conspiracy a robbery was committed in a petrol pump in which two persons were murdered on the spot itself while other received fire arm injury and in robbery huge amount from petrol pump was looted. Few months prior to lodging of the present F.I.R. i.e. Manigachhi P.S. Case No. 127 of 2011 in similar manner robbery was committed in another petrol pump and thereafter materials were collected and it was established that the petitioner namely Nityanand Jha was also known as Baba and he was the master mind in the case.

Considering the facts and circumstances particularly the nature of accusation as well as the fact that petitioner

remained absconder for a long period there is no reason to entertain the prayer for grant of bail.

The petition stands dismissed.

(Rakesh Kumar, J)

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