IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14027 of 2016

Arising Out of PS. Case No.-8 Year-2013 Thana- KHAGARIA GRP CASE District- Khagaria

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Shyam Yadav Son of Late Ram Badan Yadav, Resident of village- Chilkauri, P.S.- Alauli, District- Khagaria

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Deepak Kumar
For the Opposite Party/s : Mr. MD.SUFIYAN (APP)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 08-11-2017 Heard learned counsel for the parties.

The petitioner has renewed his prayer for bail in a case registered for the offences punishable under Sections 302 and 120B/34 of the IPC and section 27 of the Arms Act.

The prosecution case is that the informant's father was the Area Commander of the Maoist extremist organization but subsequently he left the organization. The pressure was being made by the Maoist to join the organization but he refused to accept the offer and consequently on the date of alleged occurrence, the informant and one Ram Chandra Yadav were following the deceased from a distance when the informant saw that Manoj Yadav, Nand Kishore Sada, petitioner and Mahantha surrounded his father who were variously armed. On the order of co-accused Sunil Yadav, the petitioner and co accused

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Sandeep Yadav caused firearm injury to the father and escaped from the scene.

It is submitted by learned counsel for the petitioner that the petitioner is languishing in custody since 20.2.2014 and the trial is not proceeding due to non production of witnesses. It is further submitted that since the brother of the petitioner was killed for which a case was registered being Chandpura P.S. Case No. 67 of 2012 against the father of the informant and others, hence the informant has purposely roped the petitioner in the present case. From the statement of witnesses it appears that the petitioner was not present at or around the place of occurrence. The statement recorded in paragraph 12 of the case diary of the independent witnesses reflect that they reached the place of occurrence earlier to the family members of the informant. Statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

Learned APP submits that it is the petitioner who first fired at the father of the informant and thereafter, other co accused caused injury to the victim.

The report of the learned Additional Sessions Judge -4, Khagaria dated 23.2.2017 reflects that there are nine charge sheet witnesses but only two have been examined and for

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securing the attendance of left over witnesses, summons, bailable warrant of arrest and non-bailable warrant of arrest have been issued. The S.P., Rail, Katihar has also been informed.

Considering the nature of accusation, this court is not inclined to revise the earlier order. This application is accordingly dismissed.

However, keeping in view the fact that the petitioner is in custody for about four years, it is expected from the S.P., Rail, Katihar to get the witnesses produced and the learned trial court is expected to conclude the trial preferably within a period of four months.

Let the case diary be returned to the learned court below forthwith.

(Dinesh Kumar Singh, J)

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