

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21167 of 2017

Arising Out of PS. Case No.-16 Year-2016 Thana- FALKAHA District- Katihar

Binod Paswan Son of Ram Bilash Paswan, Resident of Village- Shastri Nagar,
Gulab Bagh, Police Station Sadar, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka NandSingh

For the Opposite Party/s : Mr. SRI ANAND MOHAN PRASAD MEHTA

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 22-11-2017 Heard learned counsels for the parties.

The petitioner who is languishing in custody since 28.1.2016, has renewed his prayer for bail in a case registered for the offences punishable under Sections 399, 402, 353,414,307,341,342 and 365 of the Indian Penal Code, sections 25(1-B) a, 26 and 35 of the Arms Act and sections 21 and 22 of the NDPS Act.

The prosecution case got initiated on the self-statement of Anup Kumar, S.I. of Police, Pothia O.P. to the effect that the informant received information that one person has been kidnapped in a white Scorpio vehicle. On raid being conducted, one white colour Scorpio vehicle was found parked near petrol pump in which two persons were found sitting and three persons were standing out side the vehicle, in suspicious condition. On



chase being made, the accused persons resorted to fire on the police force. Ultimately, co-accused Lalan Paswan and Md. Kaisar were apprehended while standing near the vehicle. From the possession of co accused Lalan Paswan, one loaded country-made pistol, which appeared to have been recently used along with one used cartridge and one live cartridge were recovered, whereas from the possession of co accused Md. Kaishar, fire-arm along with some sedative tablets were recovered. One person, namely, Md. Asif was found kept captive in the vehicle. The driver of the Scorpio vehicle Md. Asif suggested that the vehicle was hired by Md. Kaishar and subsequently he realized that the accused persons abducted him and were planning to commit dacoity. Subsequently, the petitioner Binod Paswan, co accused Md. Aftab Khan and Abhishek Yadav were also arrested from the place of seizure and from the possession of the petitioner one loaded pistol was recovered.

It is submitted by learned counsel for the petitioner that even assuming the accusation to be true, no offence under the provisions of NDPS Act is made out, as the sedative tablets were recovered from the possession of co accused Md. Kaishar. It is further submitted that similarly situated co-accused Md. Aftab Khan has been granted bail by the learned court below.



Moreover, no injury was caused to the police personnel. Hence, offence under section 307 of the IPC is also not made out. Though the petitioner is accused in three other cases but it is submitted that all the cases are registered for petty offences, like, under sections 457,380,461,379, 411 and 414 of the IPC.

Learned counsel for the State submits that the accused persons were identified by the captive Md. Asif on spot who named them in his statement under section 164 of the Cr.P.C., making specific accusation.

Considering the rival submissions of the parties, in view of this court though the petitioner is accused in other cases but they were filed for petty offences, the petitioner is in custody since 28.1.2016 and the report of the learned Additional Sessions Judge I, Katihar dated 20.9.2017 suggests that out of eight chargesheet witnesses, only one witness has been examined. Hence, considering the fact that there is no likelihood of the trial being concluded in near future and co accused Aftab Khan has been granted bail, let the petitioner above named be released on bail on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Katihar in connection with Falka P.S. Case No. 16 of 2016.



The learned trial court will be at liberty to cancel the bail bonds of the petitioner in case he defaults on two consecutive occasions.

(Dinesh Kumar Singh, J)

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