

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.36317 of 2017

Arising Out of PS.Case No. -229 Year- 2014 Thana -BARH District- PATNA

=====

Raju Kumar @ Raju Singh, Son of Abhay Singh, Resident of Village:
Ladma, P.S. : Barh, District Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.
Mr. Amar Jyoti Sharma, Adv.
Mr. Ashok Kumar Verma, Adv.
For the Opposite Party/s : Smt. Sucheta Yadav, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

2 10-08-2017 Heard learned counsel for the petitioner, Mr. Sandip Kumar, learned counsel appearing on behalf of one of the witnesses in the present case and the learned APP for the State.

The petitioner, in the present case, is seeking regular bail in connection with Barh P.S. Case No.229 of 2014 dated 18.06.2014 under Sections 302 and 120B/34 of the Indian Penal Code read with Section 27 of the Arms Act.

A perusal of the First Information Report, as contained in Annexure-1, would show that the informant Indu Devi had named this petitioner along with five other accused persons saying that on hearing a sound of firing when she went to the place of occurrence she found her husband lying down in pool



of blood and his body was embedded by fire arm injuries. The informant stated that two persons, who had seen the alleged occurrence, told her the name of the accused who had participated in the alleged firing upon her husband. The reason disclosed is that her husband was one of the witnesses in another case involving these accused persons and he was earlier threatened with dire consequences.

The petitioner, in the present case, did not surrender. Some of the accused persons surrendered and after trial one of the accused namely Vikash Singh had been convicted while other accused persons namely Kamlesh Singh and Vivekanand Singh are said to have been acquitted. This petitioner initially applied for anticipatory bail in which it is stated that he had got some interim stay from the court of Session, but later on the application was rejected and this Court refused to entertain the anticipatory bail application in view of the judgment of the Hon'ble Supreme Court in the case of Jai Prakash Singh Vs. The State of Bihar & Anr. reported in (2012) 4 SCC 379. The order rejecting the application of the petitioner by this Court is dated 16.05.2016. However, the petitioner still did not surrender and was ultimately apprehended by the police while he had gone to depose as a witness in another case sometime in December, 2016.



Learned counsel for the petitioner submits that the petitioner was seeking his remedy by way of anticipatory bail and, therefore, he has not surrendered in the court below during on going trial and that cannot be taken against him. Learned counsel further submits that the petitioner had earlier lodged a case against the rival group when his father was kidnapped, who remained untraced, and, therefore, he has falsely been implicated in the present case at the instance of his rivals. He further submits that his uncle was also murdered by the rival group. Learned counsel submits that the petitioner is ready and willing to abide by the terms and conditions which may be imposed by the Court for grant of regular bail to the petitioner.

On the other hand, learned counsel representing one of the witnesses namely Karamvir Singh Yadav has intervened to oppose the prayer for bail, although he has no locus standi, still in the interest of justice, this Court has heard the learned counsel. Learned counsel submits that the intervention by this witness has become more necessary because the informant of the case has been influenced by the accused and release of the accused petitioner, at this stage, is likely to result in influencing the course of justice as there is every possibility that the other witnesses may also be coerced or won over.



Learned APP for the State opposed the prayer for bail and submitted that the petitioner has been apprehended much after the trial had already begun after segregating his case from the other co-accused who had earlier appeared in the case. Thus, at this stage, it would not be just and proper to release the petitioner on bail.

This Court has considered the submissions of the parties and has perused the records. It is apparent from the records that the case was instituted as back as on 18.06.2014. The petitioner along with others was named in the FIR. However, petitioner did not surrender and the trial court having no option started the trial and this petitioner was declared an absconder. The trial in respect of the co-accused, who had appeared, has already been concluded. The petitioner has been arrested while he had gone to depose in another case in December, 2016 only and, therefore, this Court is of the opinion that, at this stage, release of the petitioner would not be justified and act of balancing between the right of the accused and that of the investigating agency must be taken care of. While the petitioner has right to seek his release at the same time, the investigating agency has also a right to submit that the agency should get sufficient time to produce witnesses and should take steps to conclude the trial against the



accused particularly where the accused was absconder for two and half years approximately.

In the facts and circumstances stated above, I am not inclined to grant regular bail to the petitioner at this stage. The trial court is directed to proceed with the trial and examine the witnesses and then preferably conclude the trial within a period of nine months from the date of receipt of this order.

This Court has been informed that the case has not been committed to the court of Session. Therefore, upon receipt of this order, the learned Magistrate shall immediately proceed to pass necessary orders to facilitate commencement of the trial.

The application stands dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

U		T	
---	--	---	--

