

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.22799 of 2017

Arising Out of PS.Case No. -63 Year- 2016 Thana -AGHORA District- BHABHUA (KAIMUR)

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Vinod Singh, Son of Saheb Singh, R/o Village Badap, P.S. Adhaura,
District Kaimur at Bhabhua.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance:

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate.

For the Opposite Party/s : Mr. Madhuranand Jha, A.P.P.

For the Informant : Mr. Ram Nath Singh 'Yadav', Advocate.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

8 20-07-2017 This Court has earlier heard the learned counsel for the parties on 19.07.2017 and had dictated an oral order granting bail to the petitioner but in order to clarify some queries and before the order dated 19.07.2017 could be signed, this case has been brought under the heading – “To be mentioned” today at the instance of the Court. This Court wanted clarification as to whether the charge sheet submitted under Section 304(A) of the Indian Penal Code read with Sections 25(1-B)/A, 26 & 27 of the Arms Act has been accepted by the learned Judicial Magistrate and cognizance has been taken under the same sections as the whole emphasis of the learned counsel for the petitioner is on his argument that this petitioner is in custody only because of his implication in the Arms Act and Section 304(A) IPC is a bailable offence.



Learned counsel for the petitioner and learned A.P.P. for the State are present.

It has been repeatedly submitted by the learned counsel for the petitioner in presence of the learned counsel for the State that the charge sheet, as filed by police, has been accepted by the learned Chief Judicial Magistrate and cognizance has been taken under Section 304 (A) of the Indian Penal Code read with Section 25(1-B)/A, 26 & 27 of the Arms Act.

Heard learned counsel for the petitioner, learned counsel for the State.

The petitioner is seeking regular bail in connection with Adhaura P.S. Case No. 63 of 2016, G.R. No. 2833 of 2016, registered for the offence alleged under Section 302 of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that although in the First Information Report which has been lodged on 13.11.2016 in respect of the occurrence dated 28.10.2016 it is alleged that the petitioner had come and had taken the victim from his house and shot him causing firearm injury as a result of which he died after about 12 days. Learned counsel, however, submits that the F.I.R. was lodged four days after disposal of the dead body and in this case police has completed investigation and has



submitted a charge sheet under Section 304 (A) of the Indian Penal Code read with Sections 25 (1-B)/A, 26 & 27 of the Arms Act which has been accepted by the learned Chief Judicial Magistrate. The whole emphasis of his argument is that the allegation of murder against the petitioner has not been found true by the investigating agency. He further submits that Section 304 (A) is a bailable offence but only because his implication under the provisions of the Arms Act for recovery of a 'Bharathi gun and some materials which are used for hunting purposes, the petitioner is in custody since 28.11.2016. Learned counsel submits that in course of investigation police has specifically investigated on the point of prior enmity and has found that there was no land dispute, the petitioner and the victim were friendly and had Sasural in the same village and in fact neither intention nor motive could be established behind killing of the victim. There is no criminal history. In these circumstances he has prayed for regular bail to the petitioner on such terms and conditions which may be imposed in accordance with law.

Learned A.P.P. and learned counsel for the informant both opposed the prayer for bail pointing out that in some of the paragraphs of the case diary, witnesses have stated that they had gone to the place of occurrence to see the victim who was saying



that he had been killed by this petitioner. In course of hearing, police has taken statements of other witnesses also and the senior police officers to the rank of S.P. supervised the case then reached to a conclusion that both the petitioner and the victim had gone to the jungle for a hunt and to save the crops from jungle pigs and there in negligent firing the shot hit the victim.

Considering the facts and circumstances, particularly that F.I.R. was lodged four days after disposal of dead body and that after investigation police has submitted a charge sheet under Section 304 (A) of the Indian Penal Code and Sections 25(1-B)/A, 26 & 27 of the Arms Act and no sufficient material could be found against the petitioner either on the point of enmity or the allegation of shooting with an intention to kill as also police has not found any material suggesting prior enmity rather in case diary and supervision it has come that both were friends, the place of alleged occurrence is just adjacent the agriculture land having paddy crop of the informant and the petitioner has no criminal antecedent, I am inclined to grant regular bail to the petitioner. Accordingly, let the petitioner, namely, Vinod Singh be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Kaimur at Bhabua in connection with



Adhoura P.S. Case No. 63 of 2016, G.R. No. 2833 of 2016, subject to the conditions U/S 437(3) Cr.P.C. that the petitioner will co-operate in course of trial by putting his appearance in the trial court regularly, two regular defaults in appearance shall lead to cancellation of bail. The petitioner shall not indulge in threatening any of the witnesses and shall not tamper with the evidence. If the petitioner indulges in threatening the witnesses, the informant or attempts to tamper with evidence, the informant may take appropriate steps in accordance with law.

(Rajeev Ranjan Prasad, J)

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