

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43216 of 2017

Arising Out of PS.Case No. -366 Year- 2017 Thana -ARA NAGAR District- BHOJPUR

=====

Jamal Ashraf, Son of Late Md Hafij Raza, R/o Village Tari Mohalla, P.S.
Ara (Town), District- Bhojpur at Ara.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary

For the Opposite Party/s : Mr. Sri Rajkishore Singh

=====

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

6 13-12-2017 Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

Petitioner is languishing in judicial custody since
12.07.2017 in connection with Ara Town P.S. Case No. 366 of
2017 for offences punishable under Sections 302/120(B)/34 of the
Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, as lodged by the informant, is
that while Krishna Kumar Singh (deceased) was on way, 7-8
persons in a motorcycle started indiscriminate firing as a result the
said Krishna Kumar Singh succumbed to the injury. It is alleged
that the petitioner and four others were conspirators of the said
occurrence.



It has been submitted by the learned counsel for the petitioner that he is innocent, no overt act has been alleged against him except of being a conspirator to the said occurrence. He submits that charge-sheet has already been submitted and that other co-accused named along with the petitioner has been enlarged on bail by a co-ordinate Bench of this Court in Cr. Misc. No. 45527 of 2017 on 17.10.2017 and one of the co-accused on similar allegation of being a conspirator, his application has been disposed of for verification of his criminal antecedent by the learned court below and if nothing would be brought against the petitioner then he would be released.

However, learned counsel for the informant opposes the prayer for bail stating therein that the petitioner has given only two earlier cases pending against him but by way of supplementary affidavit he has given three more cases pending against him. Counsel for the informant has also filed a counter affidavit enumerating six cases pending against the petitioner apart from the present case. In this connection a report was called for by which the Superintendent of Police, Bhojpur at Ara has given report by memo No. 4718 dated 27.11.2017 that only three cases are pending against the petitioner apart from the present case.



Learned APP for the State also opposes the prayer for bail.

Considering the facts and circumstances and the materials on record, this application is disposed of with direction to the court below to verify the criminal antecedent of the petitioner and if it is found that he is accused in only five cases, which are mentioned in the bail application i.e. (i) Ara Town P.S. Case No. 379/12 (ii) Ara Town P.S. Case No. 532/15 (iii) Ara Town P.S. Case No. 78/16 (iv) Ara Town P.S. Case No. 03/2002 (v) Ara Town P.S. Case No. 381/2012, then after varying the fact that save and except allegation as mentioned above, nothing else has been brought against the petitioner, he shall release the petitioner on bail to his own satisfaction, otherwise he is free to pass an order as he deems fit and proper.

(Nilu Agrawal, J)

Devendra/-

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

