

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.52426 of 2016

Arising Out of PS. Case No. -34 Year- 2016 Thana -DHANGAI District- BHOJPUR

=====

SHESH NATH YADAV SON OF KHALIFA YADAV RESIDENT OF
VILLAGE-KAITHI POLICE STATION BAGEN, DISTRICT-BUXAR

.... PETITIONER/S

VERSUS

THE STATE OF BIHAR

.... OPPOSITE PARTY/S

=====

Appearance:

For the Petitioner/s : Mr. Ramchandra Singh, Adv.

For the Opposite Party/s : Mr. Sri Brajendra Nath Pandey, APP

=====

ORAL ORDER

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

3 16-02-2017 Heard learned counsel for the petitioner as well
as learned Additional Public Prosecutor.

Present case speaks the methodology of a criminal how they indulged themselves during commission of crime and further nature of crime being committed at their end conjointly.

A truck was intercepted by the criminals coming from Madhya Pradesh loaded with seeds with the help of bolero jeep and then taken to a place where they were allowed to sit, goods were unloaded and then directed to driver to proceed as per their direction during midst thereof, unfortunately police was in action whereupon driver raised



alarm and the occupants of the jeep as well as inside cabin of the truck were apprehended. Petitioner is one of the occupants of the jeep.

Learned counsel for the petitioner has submitted that he has fallen prey at the hands of the police. To justify the same, it has been submitted that he was arrested in connection with Dumraon (Naya Bhojpur O.P.) P.S. Case No.162/2016 on account of recovery of cartridges and subsequently thereof, has been remanded in this case. Furthermore, it has been submitted that during course of 164 Cr.P.C. statement, the driver had not named the petitioner, although Khalasi had named but after long duration. Apart from this, it has also been submitted that petitioner has got clean antecedent save and except the aforesaid arms act case no other case survives against him. Furthermore, he has been remanded from Dumraon (Naya Bhojpur O.P.) P.S. Case No.162/2016 subsequently, so petitioner be released on bail.

The learned Additional Public Prosecutor opposed the prayer.

From the fardbeyan of Dumraon (Naya Bhojpur O.P.) P.S. Case No.162/2016, registered under Section 414 IPC 25(1-b)a, 26, 35 of the Arms Act it is apparent that



presence of truck as well as presence of prosecution party have been perceived and further, on an alarm raised by the driver of the truck bearing registration no.MP-17HH2027, the occupant of the cabin as well as the occupant of the bolero which was following the truck were apprehended, though two of them occupying the bolero jeep managed to escape. So apprehension of petitioner is found from much exposed. Though the police would have continued with one case but, on account of search and seizure, two independent cases have been registered whereupon, it was prerogative of the police to remand an accused with regard to particular case on priority basis. It is further evident from the case diary that soon after apprehension, the police swung into action and followed with the accused at the site where the articles were unloaded and seized the same which is apparent from paragraph-2 of the case diary. Therefore, identification of petitioner goes out of controversy and in the aforesaid background, whether he was named by the informant or not became irrelevant more particularly in the background of the fact that informant happens to be resident of Madhya Pradesh, another State having no access to know and recollect his memory identifying each of the accused by his name.



That being so, I am not convinced with the prayer having been made on behalf of petitioner as a result of which prayer for bail is rejected.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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

