

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.54951 of 2017

Arising Out of PS.Case No. -116 Year- 2017 Thana -TAJPUR District- SAMASTIPUR

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Ranjan Kumar @ Ranjan Kumar Sah @ Balajee, Son of Ram Balak Sah,
Resident of Village- Rampur Singhara, P.S.- Mahua, District- Vaishali.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Shyameshwar Kumar Singh, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5. 13-12-2017

Pursuant to the order dated 06.12.2017, Sri Sanjay

Kumar Singh, the then, S.H.O. of Tajpur (Waini O.P.),

Sadar, Samastipur, as also the present S.H.O. are present in

court.

It is in fact Sri Sanjay Kumar Singh, the then S.H.O. who had drawn the F.I.R. and had prepared the seizure list in connection with Tajpur (Waini O.P.) P.S. Case No. 116 of 2017 dated 23.04.2017 under Section 395/397/412 of the Indian Penal Code. His presence was sought for only when the learned counsel for the petitioner raised a plea that although the F.I.R. lodged on the basis of a *fard-e-beyan* of the informant on 23.04.2017 at 2.30 A.M. alleges that a loaded pistol was recovered/seized from the possession of this petitioner but the seizure list prepared by



the then S.H.O. nowhere shows recovery or seizure of a loaded pistol from possession of the petitioner.

On the last occasion when a show cause was filed by the S.H.O., it was admitted in paragraph 8 of the show cause that after registration of the Tajpur (Waini O.P.) P.S. Case No. 116/2017 under Section 395/397/412 IPC at about 2.30 A.M. near Thahera Gopalpur Bridge, another case being Tajpur (Waini O.P.) P.S. Case No. 117/2017 dated 23.04.2017 was lodged under Section 414 IPC and 25(1-B)A, 26/35 of the Arms Act at 4.30 hours.

It is admitted that both the cases are in connection with the same transaction. The then S.H.O. as well as the present S.H.O. admit to this extent that the seizure list prepared in the present case does not show seizure of the loaded pistol.

In course of argument, when a question was put to them as to why not the provisions of Section 414 IPC and the Arms Act were added to the present F.I.R. and the seizure of the loaded pistol was not shown in the seizure list prepared in connection with the present case, no satisfactory or legal answer could be offered. It is evident from the records that a separate F.I.R. was lodged under the



provisions of Section 414 IPC and the Arms Act, though there was no legal bar in adding those sections in the first F.I.R. itself because that was also prior in time. It gives an impression to this Court that the Police Officer was more interested in creating the records burdening not only himself but also to the system and the Court by dealing with the matters in two different records though arising out of the same transaction.

I am of the view that the Superintendent of Police, Samastipur and for that reason, all the Superintendent of Police in the State of Bihar are required to check the records that because of lodging of one F.I.R. in some of the sections of I.P.C. and then another F.I.R. under some other provisions of the I.P.C. or/and the Arms Act in relation to the same and one occurrence, to what extent the system and the Court is being burdened and whether at all the Police Officer armed with power to lodge an F.I.R. may do so at their sweet will. These are to be dealt in the administrative side.

Let a copy of this order be communicated to all the Superintendent of Police in the State of Bihar for some remedial measures.

Coming to the present case. learned counsel for



the petitioner submits that earlier the prayer for regular bail of this petitioner was rejected by this Court vide order dated 19.08.2017 taking a view that the police has recovered a loaded pistol from the petitioner and the petitioner was involved in commission of a serious offence.

Learned counsel submits that during the intervening period the co-accused Manish Kumar and Virchand Kumar, who were similarly situated, have been granted privilege of regular bail by two different co-ordinate Benches of this Court in Cr. Misc. No. 44222/2017 and Cr. Misc. No. 55664/2017 respectively. It is further pointed out that this petitioner has also been granted privilege of regular bail by a co-ordinate Bench of this Court vide order dated 31.10.2017 in Cr. Misc. No. 39879/2017 in connection with Tajpur (Waini O.P.) P.S. Case No. 117/2017 for the offences punishable under Section 414 of the I.P.C. and Section 25(1-B)A, 26/35 of the Arms Act.

It is also pointed out that the petitioner was given liberty to renew his prayer of bail after framing of charge and now the charges have already been framed. Learned counsel points out that in view of the developments so far the prayer for regular bail of the petitioner may be



considered as petitioner has no criminal history and prior to lodging of the present case no case was there on the head of this petitioner. It is further submitted that he will undertake to cooperate in course of trial.

Learned Additional Public Prosecutor representing the State submits that this petitioner was one of the accused apprehended by police as they were running away with the pick up van of the informant. This petitioner was arrested from the Bolero vehicle along with other co-accused. Learned Additional Public Prosecutor however accepts the factual position that in the case under the Arms Act the petitioner has been granted privilege of regular bail by a co-ordinate Bench of this Court.

In the facts and circumstances stated hereinabove, considering that the petitioner has been granted bail in the case under the Arms Act and other co-accused in the present case have also been granted privilege of bail, let the petitioner, above named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Samastipur, in connection with Tajpur (Waini O.P.) P.S. Case No. 116/2017 (S.Tr. No.



703/2017), subject to condition as laid down under Section 437(3) of the Code of Criminal Procedure and further condition that petitioner shall regularly attend the trial in the court below and any two regular defaults in putting appearance in course of trial shall lead to cancellation of bail bond of the petitioner.

This application is, accordingly, allowed.

Personal appearance of the then S.H.O. and the present S.H.O. OF Tajpur (Waini O.P.), Sadar, Samastipur is dispensed with.

(Rajeev Ranjan Prasad, J.)

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