

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12243 of 2018

Arising Out of PS. Case No.-16 Year-2016 Thana- FALKAHA District- Katihar

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Lalan Paswan @ Lalan Pawan S/o Late Bishu Paswan, R/o Village- Hansda
Gulab Bagh, P.S.- Dadar, Distt.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mira Kumari

For the Opposite Party/s : Mr. SRI IFTEKHAR MAHMOOD

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 28-03-2018 Heard learned counsels for the parties.

The petitioner who is languishing in custody since 28.1.2016, has renewed his prayer for bail in a case registered for the offences punishable under Sections 399, 402, 353,414,307,341,342 and 365 of the Indian Penal Code, sections 25(1-B) a, 26,27 and 35 of the Arms Act and sections 21 and 22 of the NDPS Act.

The prosecution case got initiated on the self-statement of Anup Kumar, S.I. of Police, Pothia O.P. on 22.1.2016 at 1.45 P.M. at Pratyaksh H.P. Petrol Pump, Dummar to the effect that the informant received information that one person has been kidnapped in a white Scorpio vehicle. On raid being conducted, one white colour Scorpio vehicle was found parked near petrol pump in which two persons were found sitting and three persons



were standing outside the vehicle, in suspicious condition. On chase being made, the accused persons resorted to fire on the police force. Ultimately, the petitioner Lalan Paswan and co-accused Md. Kaisar were apprehended while standing near the vehicle. From the possession of the petitioner, one loaded country-made pistol, which appeared to have been recently used along with one used cartridge and one live cartridge were recovered, whereas from the possession of co-accused Md. Kaishar, fortnight injection, syringe and several mobiles were recovered. The petitioner also received injuries while the police was chasing him and thereafter the person who was kept captive in the Scorpio vehicle, was released who suggested his name as Md. Asif. The driver of the Scorpio vehicle Md. Asif suggested that the vehicle was hired by Md. Kaishar and subsequently he realized that the accused persons abducted him and were planning to commit dacoity. Subsequently, co-accused Binod Paswan, Md. Aftab Khan and Abhishek Yadav were also arrested from the place of seizure and from their possession also different foreign currencies, ATM cards and other articles along with fire arm were recovered.

It is submitted by learned counsel for the petitioner that even assuming the accusation to be true, no offence under the



provisions of NDPS Act is made out, as the sedative tablets were recovered from the possession of co accused Md. Kaishar. It is further submitted that similarly situated co-accused Md. Aftab Khan has been granted bail by the learned court below. Moreover, no injury was caused to the police personnel. Hence, offence under section 307 of the IPC is also not made out. At best, it is a case under the Arms Act and the petitioner has no criminal antecedent of committing any such kind of offence as he is only accused in one other case namely, Falka P.S. Case No. 478 of 2013 registered under section 379 of the IPC and only on suspicion the petitioner has been roped in the present case. It is further submitted that the person who was kept captive in the Scorpio vehicle, did not name the petitioner. There is no likelihood of the trial being concluded in near future. Moreover, co-accused Md. Aftab Khan has been granted bail by the learned court below and co-accused Binod Paswan has been granted bail by this Court vide Cr. Misc. No. 21167 of 2017. It is further submitted that only one witness has been examined so far.

Learned counsel for the State submits that the petitioner was apprehended while preparing to commit dacoity when one person was kept captive.

Considering the fact that as per accusation no case under



the NDPS Act is made out, the person who was kept captive did not name the petitioner and considering the fact that there is no likelihood of the trial being concluded in near future, moreover, the petitioner is languishing in custody since 28.1.2016, let the petitioner above named be released on bail on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge-cum-Additional Sessions Judge, Katihar in connection with Falka P.S. Case No. 16 of 2016.

The learned trial court will be at liberty to cancel the bail bonds of the petitioner in case he defaults on three consecutive occasions.

(Dinesh Kumar Singh, J)

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