

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34041 of 2018

Arising Out of PS.Case No. -67 Year- 2015 Thana -NARDIGANJ District- NAWADA

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Rabindra Singh @ Ravindra Prasad Singh, Son of Late Kedar Singh,
resident of Village- Ramey, Police Station- Nardiganj, District- Nawada.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. B.K. Singh, Advocate

Mr. Lala Sheshendra Narayan Rais, Advocate

For the Opposite Party Mr. Sunil Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3. 01-11-2018

Heard learned counsel for the petitioner and

learned counsel representing the State.

The petitioner is seeking quashing of the order dated 07.04.2018 passed in Session Trial No. 639/2017 arising out of Nardiganj P.S. Case No. 67/2015 for offences under Sections 147, 148, 149, 341, 307, 379, 120 of the Indian Penal Code read with Section 27 of the Arms Act, by which petition seeking discharge filed on behalf of the petitioner has been rejected by learned Additional Sessions Judge-1st, Nawada.

Learned counsel submits that in this case after investigation at least twice the Investigating Agency submitted a report showing that there is no sufficient materials to proceed against this petitioner, still the learned



Magistrate differed with the police report and took cognizance and decided to summon against the petitioner to face trial. The order taking cognizance and issuance of summon to the petitioner is already under challenge in a separate application pending before this court. In the meantime, as the court proceeded to frame charge against the petitioner, he filed a discharge petition on the grounds *inter alia* that the name of this petitioner was implicated in this case after about eight months from the date of the alleged occurrence and that it is a case of *mala fide* prosecution of the petitioner.

Learned counsel also submits that even the injured persons have made the statement at the belated stage and initially he told the investigating officer that he will make his statement after his brother (informant) arrives.

On the other hand, learned counsel representing the State has opposed the prayer for setting aside the impugned order on the grounds *inter alia* that the two injured witnesses of this case have named this petitioner as an assailant and their statement in paragraph-25 & 26 of the case diary have been referred by the learned trial court while rejecting the prayer for discharge. Learned counsel



submits that the plea of *mala fide* cannot be examined at this stage.

Having heard learned counsel for the petitioner and learned counsel for the State as also on perusal of the records, this court finds that the delay in disclosing the name of this petitioner cannot be a ground at this stage to discharge him from the case. On records, it is available that the two injured witnesses have named this petitioner as an assailant. A plea of *mala fide* shall not be examined at this stage by this court. Those are the matters to be looked into after the evidences are recorded in course of trial.

Finding no merit in this application, it is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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