

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.204 of 2018

Arising Out of PS.Case No. -62 Year- 2016 Thana -SARAI District- VAISHALI(HAJIPUR)

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Ram Ekbal Rai, S/o Late Nanda Rai, R/o Village- Anwarpur, P.S.- Sarai,
District- Vaishali

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Kamal Nayan Choubey, Sr. Advocate
Mr. Gyanendra Kumar Shukla, Advocate
For the Opposite Party : Mr. Awadhesh Kumar Singh, APP

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

3 17-01-2018 Heard Mr. Kamal Nayan Choubey, learned Senior

Counsel appearing on behalf of the petitioner and the learned

counsel appearing on behalf of the State.

The petitioner is in custody since 22.08.2017 in
connection with Sarai P.S. Case No.62 of 2016 registered for
the offence under Sections 147, 148, 149, 341, 342, 302, 504,
120B of the Indian Penal Code read with Section 27 of the
Arms Act.

The petitioner seeks to renew his prayer for bail under
the changed circumstances as now the charge has been framed.

Learned Senior Counsel appearing on behalf of the
petitioner submits that on the earlier occasion, the petitioner's
application was rejected on the premise that he had actively



participated in the occurrence and it was under his direction that the main assailant had fired, leading to the death of the deceased. Learned counsel further submits that the addition of the name of the petitioner is a mere embellishment and there is nothing on the record of the case diary to show that the petitioner had, in fact, participated in the occurrence. It is further submitted that the petitioner's name has been dragged in only because he was a candidate for the post of *Mukhiya* and has been successfully elected. The petitioner had also been the past *Mukhiya* and his adversaries were trying to dislodge him from the post of *Mukhiya*, but when they could not succeed in such venture, the present case has been lodged dragging his name so as to defeat his candidature and dislodge him from the post of *Mukhiya*. He further submits that the petitioner has already been in custody for more than four months and if he is unable to attend the meetings of the *Panchayat*, then by efflux of time, under the provisions of the Panchayat Act he will be automatically deprived of the said post.

Learned counsel for the petitioner further submits that now charge has already been framed and the petitioner is willing to co-operate in the trial and present himself as and when required so as to ensure that the trial is reached to its



logical conclusion.

Learned APP after perusal of the case diary submits that though there is an allegation that the petitioner had, in fact, ordered but it is not clear as to whether he had instigated and call details do not show the presence of the petitioner at the particular occasion.

Having considered the entire facts and circumstances of the case and that the petitioner is a responsible functionary of the *Panchayat* and is not likely to abscond as he is expected to participate in the rest meetings of the *Panchayat* and also willing to co-operate in the trial, let the petitioner, above named, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-XIII-Cum-Sub Judge-XIV, Hajipur, Vaishali, in connection with Sarai P.S. Case No.62 of 2016, subject to the following conditions:

(1) One of the bailors shall be his blood relative who shall keep the court apprised of the movement of the petitioner from one place to another.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.



(3) The petitioner shall remain physically present in court on each and every date during trial and in the event of his failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjana Mishra, J)

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