

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59323 of 2017

Arising Out of PS.Case No. -137 Year- 2017 Thana -DHANARUA District- PATNA

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Lalbabu Paswan, Son of Ajit Paswan, resident of village- Barki Dhamaul,
Police Station- Dhanarua, District- Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Ranjan, Advocate

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

3 10-01-2018 Heard learned counsel for the petitioner, learned

counsel for the informant and the learned APP for the State.

This is the second round of litigation. Earlier the bail application of the petitioner was rejected by order dated 31.08.2017 passed in Cr. Misc. No. 35088 of 2017 with liberty to renew his prayer for bail after framing of charge. Petitioner is languishing in judicial custody since 06.04.2017 in connection with Sessions Trial No. 611 of 2017, arising out of Dhanarua P.S. Case No. 137 of 2017 registered for the offences punishable under Section 302 and other allied sections of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case, as lodged by the informant, is



that while he was harvesting pulse in his field, he got information that some accused persons named in the First Information Report have entered in his house and are abusing. Thereafter, accused persons fired on the deceased Mithu Paswan, son of the informant and allegation upon the petitioner and co-accused Ram Pravesh Paswan is of order giver, while co-accused Ajit Paswan is alleged to have fired on the deceased, son of the informant from his pistol, who succumbed to the injuries.

It has been submitted by the learned counsel for the petitioner that he is innocent, no overt act has been committed and the petitioner was just a member of the unlawful assembly. He submits that the matter relates to land dispute and that he bears no criminal antecedent. He submits that charges have been framed on 18.10.2017 and that petitioner undertakes to abide by the conditions imposed and shall cooperate in disposal of the trial on day to day basis.

However, learned counsel appearing on behalf of the informant vehemently opposes the prayer for bail stating therein that the petitioner along with one Ram Pravesh Paswan was the order giver and not only that, he was the instigator and had informed the main assailant about the whereabouts of the deceased



son of the informant. Informant has filed a counter affidavit enclosing Informatory Petition No. 615(M) of 2017 filed before the learned S.D.J.M., Masaurhi that the accused persons along with their relatives are threatening his family members and also asked them not to turn up before the trial court, which will seriously prejudice the trial. Learned APP for the State also opposes the prayer for bail.

Considering the facts and circumstances and the materials on record and that the petitioner undertakes to cooperate in the trial, let petitioner, above named, be enlarged on bail on furnishing bail bond of Rs.10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-III, Patna in connection with Sessions Trial No. 611 of 2017, arising out of Dhanarua P.S. Case No. 137 of 2017, subject to the following conditions:

- (1) Both the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating their relationship with the petitioner.
- (2) The petitioner will appear before the



learned Court below on each and every date and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.

(3) It is also made clear that if the trial court finds that the petitioner has, in any way, threatened the informant's side, learned trial court will be at liberty to cancel his bail bonds without being prejudiced with this order.

(Nilu Agrawal, J.)

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