

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44219 of 2018

Arising Out of PS. Case No.-366 Year-2017 Thana- HAJIPUR District- Vaishali

Manish Sahni @ Manish Kumar Son of Nagina Sahni, Resident of Mohalla-
Nakhhas Chowk, Police Station- Town Hajipur, District- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anita Kumari Singh

For the Opposite Party/s : Mr.Sri Mukeshwar Dayal

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 07-02-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is languishing in custody since 15.12.2017 in a case registered for the offence punishable under Sections 147,148,149,341,324,307 and 506 of the Indian Penal Code and Section 27 of the Arms, Act.

The prosecution case got initiated on the Fardbeyan of Rani Devi, recorded by Rameshwar Upadhyay Town Police Station, Hazipur on 31.05.2017 at 11.00 A.M., to the effect that the father of the informant, Shyam Babu Paswan was working as a guard near Kaunhara Ghat under Namami Gange scheme, on the same day, at 6.30 A.M. co-accused, Manish Sahni was easing out at the place of work. On protest being made by the father of the informant, he threatened him.



Subsequently after an hour, 12 accused persons came variously armed and the petitioner fired on the father of the informant with pistol causing injury on his abdomen, thereafter second firing resorted to the petitioner caused injury on the buttock of the informant's father, while firing made by co-accused Sunil Sahni caused injury on the abdomen of the informant's father.

It is submitted by learned counsel for the petitioner that in the background of old enmity with the informant, the accusation has been levelled. However, the part of the accusation levelled in the FIR has been diluted by the victim in his statement recorded under Section 161 of the Cr. P.C. to the extent that only the petitioner resorted to fire on him and considering the same, co-accused Sunil Sahni has been granted bail by a co-ordinate Bench of this Court vide order dated 02.08.2018, passed in Criminal Miscellaneous No. 31186 of 2018. Learned counsel for the petitioner further submits that for a petty dispute, the occurrence is alleged to have happened. Though the petitioner is accused in two other cases, but in both the cases he is on bail and the investigation of the present case has already been concluded.

Learned APP for the State submits that there is direct accusation against the petitioner in the FIR of causing fire arm



injury twice to the victim. However, admits that the case diary does not contain the injury report.

It appears that vide order dated 30.07.2018, a Bench of this Court called for the case diary of Hajipur Town P.S. Case No.366 of 2017. In pursuance to the aforesaid order, though the case diary was received, but without injury report, hence vide order dated 01.10.2018, a Bench of this Court called for injury report in connection with the aforesaid matter. But even then, the same was been received, thereafter, vide order dated 26.11.2018, while calling for the injury report, an explanation was also called for from the Superintendent of Police, Vaishali for non-compliance of the earlier orders. On 04.01.2019, an affidavit was filed along with a photocopy of the injury report, but without any explanation on behalf of the Superintendent of Police, Vaishali for non-transmission of the injury report.

In the circumstances, this Court is not inclined to keep the matter pending.

It is submitted by learned APP for the State that though the accusation against the petitioner is to have caused two injuries one on the abdomen and other on the buttock whereas co-accused Sunil Sahni caused third injur on the



abdomen of the informant but the injury report suggests only one injury on the abdomen.

Considering the fact that there is inconsistency between the accusation and the medical opinion, the investigation has already been concluded and there is no likelihood of trial being concluded in near future, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Vaishali in connection with Hajipur Town P.S. Case No.366 of 2017.

Since the petitioner has serious criminal antecedent, learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions or gets involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

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