

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20240 of 2020

Arising Out of PS. Case No.-82 Year-2000 Thana- BAUNSI District- Banka

Kamal Paswan Son of Late Sita Ram Paswan Resident of Village - Daliya,
P.S.- Bounsi, Distt.- Banka.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha
For the Opposite Party/s : Mr. Shyam Bihari Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 09-07-2020 The matter has been taken up through virtual

Court proceeding.

Since the physical court proceeding is non-
functional due to the present pandemic COVID-19, the
matter is listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of the resumption
of the physical Court proceedings.

In case of non-removal of the defects within
undertaken period, the office shall place the matter
before the bench.

Heard learned counsel for the petitioner and



learned counsel for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 147, 148, 149, 323, 341, 307 of the Indian Penal Code and Section 27 of the Arms Act.

The prosecution case as per the fardbeyan of Manja Yadav, recorded by S.I. Vipin Lal Ram on 11.08.2000 is to the effect that on the same day in the morning, the informant went to purchase vegetables in the market, but on the way, eleven accused persons including the petitioner, on two vehicles intercepted the informant and co-accused Dilip Yadav ordered to assault the informant upon which, co-accused Manoj Yadav started assaulting the informant and when the informant tried to escape from the scene, it is alleged that co-accused Dilip Yadav fired from his pistol.

It is submitted by learned counsel for the petitioner that for the case registered in the year 2000, charge-sheet was submitted on 30.09.2002 under



Section 504 of the Indian Penal Code whereas learned magistrate, differing with the final form took cognizance under Section 307 and other provisions of the Indian Penal Code on 26.06.2008. It is further submitted that since the petitioner lives in Delhi for livelihood, he was not aware about the cognizance being taken and processes being served upon him.

A statement has been made in para 3 of the petition that petitioner is not having any criminal antecedent.

Learned A.P.P. submits that petitioner is named in the F.I.R.

Considering the fact that specific accusation of firing has been levelled against co-accused Dilip Yadav, no overt act is alleged against the petitioner and petitioner is not having any criminal antecedent, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a



period of three months on furnishing one surety to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Bounsi P.S. Case No. 82 of 2000, subject to the conditions as laid down under Section 438(2) Cr.P.C.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka in connection with Bounsi P.S. Case No. 82 of 2000 including one surety given at the time of



provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.

Accordingly the present application stands disposed of.

(Dinesh Kumar Singh, J)

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