

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11965 of 2022

Arising Out of PS. Case No.-247 Year-2021 Thana- BUNIYAD GANJ District- Gaya

RAJA KUMAR TANTI @ AJIT KUMAR S/o- Bigan Kumar Tanti @ Bigan Prasad Resident of Mohalla - Shivcharan Lane, Manpur, P.S. - Buniyadganj, District - Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar

For the Opposite Party/s : Mr.Bhanu Pratap Singh

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 13-06-2022 Heard learned counsel appearing on behalf of the petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two weeks of the complete start of the physical Court in normal course.

The petitioner seeks regular bail in connection with Buniyadganj P.S. Case No. 247 of 2021 for the offence punishable under Sections 394/307/34 of the Indian Penal Code and Sections 3/4 of the Explosive Substance Act.

As per the allegation made in the F.I.R., the petitioner along with other miscreants are said to have thrown bomb on the informant with an intention to commit robbery, as a result of which, the informant sustained injury. The petitioner along with other miscreants was apprehended by the local people and they were handed over to the police. The accused persons were taken



into custody and thereafter they were taken for treatment. The police also seized two live bombs at the place of occurrence.

Mr. Sanjay Kumar, learned counsel appearing on behalf of the petitioner submits that the petitioner has falsely been implicated in the present case. As per the F.I.R., the incidence had taken place on 12.11.2021 for which F.I.R. was registered on 13.11.2021. The accused persons including the petitioner were allegedly apprehended on the spot with the help of the villagers and the police took them into custody. A seizure list was also allegedly prepared on the spot on 13.11.2021 in which thumb impression of the petitioner was also taken along with other co-accused. He further submits that he has made a specific statement in Para-8 of the bail application that the petitioner was taken into judicial custody on 16.11.2021 even though he was apprehended on 13.11.2021 and it is not a specific case of the prosecution that the petitioner had fled away after putting his thumb impression on the seizure list rather from the F.I.R. itself it would appear that the accused were taken into custody and were medically treated. It is further stated that the present is a glaring case in which in an illegal manner the petitioner was kept in custody for three days leading to illegal confinement against the provision of Section 57 Cr.P.C. Petitioner has no criminal antecedent. The informant is of another village. The alleged recovery of bomb has been made



from the garbage and not from the possession of the petitioner.

Learned APP vehemently opposed the prayer for grant of bail to the petitioner. He submits that petitioner has been named in the F.I.R., he has put his signature but there is no explanation to that effect as to why even though the petitioner was apprehended on 13.11.2021, he was remanded in judicial custody on 16.11.2021.

Considering the nature of allegation made in the F.I.R. as well as the manner in which petitioner has been made accused in the present case, Superintendent of Police, Gopalganj is directed to seek show-cause from the concerned SHO as to what has led him to remand the petitioner on 16.11.2021 after much delay even though he was apprehended on 13.11.2021. If it is found that the S.H.O. has deliberately and illegally confined the petitioner in police custody for three days, appropriate disciplinary action must be taken against the erring police officials.

Prima facie, from perusal of the F.I.R., the petitioner was handed over by the local people to the police on 12.11.2021 and F.I.R. was registered on 13.11.2021. The police had taken the petitioner in custody along with other accused persons and got them treated in custody. There was no explanation for the delay of three days between the police custody and presenting



before Magistrate as per requirement of Section 57 of the Code of Criminal Procedure. Case of illegal confinement and false implication of the petitioner cannot be ruled out. The petitioner has made a case to be released on bail.

The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-VIII, Gaya in connection with Buniyadganj P.S. Case No. 247 of 2021 (G.R. No. 5743 of 2021), subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

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(Purnendu Singh, J)

