

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.63606 of 2022

Arising Out of PS. Case No.-15 Year-2020 Thana- HASANPUR District- Samastipur

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SHAIENDRA SINGH @ SHAIENDRA KUMAR S/O LATE RIT
NARAYAN SINGH Resident of Mohalla- Adarsh Nagar, Harnaut, P.S.-
Harnaut, District- Nalanda.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dipak Kumar, Advocate
For the Opposite Party/s : Mr.Md. Ataur Rahman, App

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CORAM: HONOURABLE MR. JUSTICE SHAIENDRA SINGH

ORAL ORDER

4 11-04-2023 Let the defect(s), if any, pointed out by the office be removed within four weeks from the date of this order failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Hasanpur P.S. Case No. 15 of 2020 dated 17.01.2020 registered for the offence(s) punishable under Section(s) 119/337/338/304/34 of the Indian Penal Code and Sections



150/154 of Railway Act.

As per the prosecution, the informant alleged that an accident took place wherein two persons got injured and five persons were killed and the reason for the alleged accident is stated to be non-closure of the railway crossing gate by the gate man (petitioner).

The main submissions advanced by the learned counsel for the petitioner are that the petitioner was posted as a gate man at the railway crossing gate where the alleged occurrence took place, in fact the petitioner had closed the said gate but the driver of the alleged bullock cart forcibly lifted the said gate and tried to cross the track which resulted in the alleged accident in which five persons lost their lives and the said railway crossing gate has a static signal which is auto-controlled by Trains Traffic System and when the gate is opened, red signal automatically reflects and the petitioner was not having duty to close the gate of *gumti* as the same was technically impossible for him unless any technical fault appears in the signal and in view of this technical position, the petitioner cannot be held liable for the alleged incident rather the bullock cart's driver must be held liable but he has not been sent up for trial by the police and after the accident, the railway department



conducted an enquiry by the Commissioner of Railway Safety, Eastern Circle, Kolkata, in which the petitioner was given the clean chit and no irregularity on his part was found and the said fact finds place in the order impugned. Further submissions are that the petitioner has fair and clean antecedent and he has been languishing in jail since 12.08.2022 and he is a retired army personnel and he was re-employed at the alleged railway crossing gate by railway department.

Learned APP appearing for the State has opposed the bail prayer.

In view of the facts, as stated above, and mainly the petitioner's custody period and the fact that as per above submission Commissioner of Railway Safety, Eastern Circle, Kolkata did not find any irregularity on the part of the petitioner in connection with the alleged accident which resulted in death of five persons and the functioning of the alleged railway gate was controlled automatically by Trains Traffic System and in the present time, the petitioner is facing trial, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the 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 the Court



concerned in connection with Hasanpur P.S. Case No. 15 of
2020.

(Shailendra Singh, J)

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