

Munna Kumar vs The State Of Bihar on 8 October, 2024

Author: Alok Kumar Pandey

Bench: Alok Kumar Pandey

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72624 of 2024
Arising Out of PS. Case No.-153 Year-2024 Thana- BANJARIA District- Ea
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Munna Kumar Son of Acchelal Mukhiya Village- Bakahi, Ps- Yogapatti, Dis
West Champaran

Versus

The State of Bihar bihar

... .. Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Bimlesh Kumar Pandey
For the Opposite Party/s : Mr.Amitesh Kumar

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 08-10-2024

Learned A.P.P. for the State submits that the F.I.R. in connection with Banjariya P.S. Case No. 153 of 2024 for the alleged occurrence has been registered on 03.07.2024 under the provision of Section 154 of Cr.P.C. whereas the Bhartiya Nagarik Suraksha Sanhita, 2023 has already come into force w.e.f. 01.07.2024.

2. In the light of the aforesaid fact, let a report be called for from the Superintendent of Police, Motihari as to why the F.I.R. in the aforesaid case has not been registered under the relevant provision of the Bhartiya Nagarik Suraksha Sanhita, 2023 as the same has come into force w.e.f. 01.07.2024. The aforesaid report must reach to this court within a period of two weeks.

3. Learned counsel for the petitioner submits that the Patna High Court CR. MISC. No.72624 of 2024(2) dt.08-10-2024 concerned police official has wrongly applied the provision of law for instituting the F.I.R. On that count, the petitioner cannot be allowed to suffer as liberty of petitioner is paramount. He further submits that while rejecting the prayer for bail of the petitioner, the concerned jurisdictional magistrate has not taken into account the aspect of institution of F.I.R. wrongly under the Old provision of Section 154 of Cr.P.C. despite the fact that the Bhartiya Nagarik Suraksha Sanhita, 2023 came into force w.e.f. 01.07.2024.

4. The petitioner seeks bail in connection with Banjariya P.S. Case No.153 of 2024 registered for the offences punishable under Section 309 (4) of Bharatiya Nyaya Sanhita, 2023 and Section 27 of Arms Act.

5. As per prosecution case, one country made pistol and after unloading the said pistol one live cartridge was recovered from the possession of the petitioner. It is further alleged that Rs. 200 was also recovered from the pocket of the petitioner.

6. Learned counsel for the petitioner submits that petitioner is quite innocent and has committed no offence as alleged in the F.I.R. Merely, the present case is the case of road rage and petitioner has falsely been implicated in the case just Patna High Court CR. MISC. No.72624 of 2024(2) dt.08-10-2024 because his motorcycle was over taken by other person and dispute arose between both the parties on account of said reason. He further submits that petitioner is in custody since 04.07.2024 and bears criminal antecedent of one case which is similar to the present case in which he is already on bail. He further submits that petitioner will not commit any offence of similar nature in future. Learned counsel orally submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

7. The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

8. Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on provisional bail until further order, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned J.M., first class, East Champaran at Motihari in connection with Banjariya P.S. Case No.153 of 2024, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn Patna High Court CR. MISC. No.72624 of 2024(2) dt.08-10-2024 the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

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

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

9. Re-list this matter on 25.10.2024.

(Alok Kumar Pandey, J) vashudha/-

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