

Nirala Paswan vs The State Of Bihar on 7 October, 2024

Author: Alok Kumar Pandey

Bench: Alok Kumar Pandey

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.70544 of 2024

Arising Out of PS. Case No.-92 Year-2024 Thana- Singhaul District

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1. Nirala Paswan Son of Vakil Paswan Resident of village- Sushil Nagar, War
No. 05, P.S -Shinghol, Distt- Begusarai
 2. Sulena Devi Wife of Vakil Paswan Resident of village- Sushil Nagar, War
No. 05, P.S -Shinghol, Distt- Begusarai

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sarvottam Kumar

For the Opposite Party/s : Mr.Md. Shakir Ahmad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL ORDER

2 07-10-2024

Heard learned counsel for the petitioners and learned A.P.P. for the State.

Learned A.P.P. for the State submits that the F.I.R. in connection with Shinghol P.S. Case No. 92 of 2024 for the alleged occurrence has been registered on 14.07.2024 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, Begusarai as to why the F.I.R. in the aforesaid case has not been registered under the relevant provision of the Bhartiya Nagarik Suraksha Patna High Court CR. MISC. No.70544 of 2024(2) dt.07-10-2024 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 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 wrongly institution of F.I.R. 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 petitioners seek bail in connection with Singhol P.S. Case No. 92 of 2024 registered for the offences punishable under Sections 126(2), 115, 121(i), 132, 74, 352, 351(3), 3(5) of the B.N.S.

5. As per prosecution case, petitioners and other are said to have caused obstruction in government work by abusing and pushing the informant and one lady constable in front of Kamli Devi who is said to have made complaint against her husband (petitioner no. 1) that petitioner no. 1 is going to Patna High Court CR. MISC. No.70544 of 2024(2) dt.07-10-2024 solemnize marriage with another lady. It is alleged that during the scuffle, police uniform of male constable got torn and they also misbehaved with the lady constable.

6. Learned counsel for the petitioners submits that petitioners are quite innocent and has committed no offence as alleged in F.I.R. and they have falsely been implicated in the present case. He further submits that petitioner no. 1 is the husband of Kamli Devi who is said to have made complaint against petitioner no. 1 that he is going to solemnize marriage with another lady. He further submits that police has no statutory provision on its own to verify that whether the petitioner no. 1 has committed bigamy by solemnizing marriage with another lady. It is totally high handedness of police that police has on its own verify the act of petitioner no. 1 that he is going to marry with another lady. He further submits that the occurrence is nothing but the high handedness of police to trap the petitioners in false case. He further submits that petitioners have categorically and specifically denied the allegation made against them in the F.I.R. He further submits that except Sections 132 and 74 of B.N.S., all sections areailable in nature. Petitioners are in custody since 15.07.2024. Petitioner no. 1 bears one criminal antecedent in which he is on bail and Patna High Court CR. MISC. No.70544 of 2024(2) dt.07-10-2024 petitioner no. 2 bears no criminal antecedent. 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 vehemently opposes the prayer for bail of the petitioners.

8. Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioners above named be released on provisional bail until further orders on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.M., Begusarai/ concerned court in connection with Singhol P.S. Case No. 92 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 the affidavit in bail application.

(ii) Petitioners 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 Patna High Court CR. MISC. No.70544 of 2024(2) dt.07-10-2024
cancellation of bail by the learned Trial court itself.

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

9. Let a copy of this order be communicated to D.G.P., Bihar for ensuring compliance with regard to institution of F.I.R. under the relevant provision of the Bhartiya Nagarik Suraksha Sanhita, 2023 as also regarding the slackness of the concerned officials in instituting the F.I.R.s 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.

10. Re-list this matter on 25.10.2024.

(Alok Kumar Pandey, J) alok/-

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