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Court : Jharkhand

Decided On : Aug-04-2017

Appellant : Amar Singh

Respondent : The State of Jharkhand

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI B.A. No. 1215 of 2017 ---- Amar Singh Petitioner -versus- The State of Jharkhand Opposite Party ---- CORAM : HONBLE MR. JUSTICE ANANDA SEN ---- For the Petitioner : Mr. Abhay Kumar Singh, Sr. Advocate Mr. Rakesh Kumar Samrendra, Advocate Mr. Rupesh Singh, Advocate For the State : Mr. Vijay Kumar Roy, A.P.P. For the Informant : Mr. B.M. Tripathi, Sr. Advocate Mr. N.K. Jaiswal, Advocate ---- 8/ 04.08.2017 The petitioner has been made an accused for the offence under Sections 302, 307 and 34 of the Indian Penal Code and Section 27 of the Arms Act, in connection with Dhurwa P.S. Case No.262 of 2015, corresponding to G.R. No. 6048 of 2015 (S.T. No. 156 of 2016).

2. The petitioner has renewed his prayer for bail as the same was earlier rejected by this Court in B.A. No. 4415 of 2016 vide order dated 21st July, 2016.

3. Heard learned senior counsel appearing for the petitioner, learned A.P.P. for the State assisted by learned senior counsel appearing on behalf of the informant.

4. The informant stated that while they were returning at about 08.00 a.m. in the morning by their vehicle and as they reached Veer Kunwar Singh Chowk, Vansh Narayan Singh and his two sons, namely, Randhir Singh and Rajveer Singh along with other persons came and intercepted their vehicle. Amar Singh (petitioner) abused them and with a rifle fired at the brother of the informant. The bullet stuck on the neck and he fell down. Another fire was made by Vansh Narayan Singh upon the informant, but, the informant could escape. He was also assaulted by sticks results in his injury. He then took his brother to the Medica Hospital where his brother was declared dead. He stated that the motive behind this murder was earlier dispute amongst them. 2 5. Learned senior counsel for the petitioner submitted that on earlier occasions several points were not placed, which are there in the records. He tried to impress upon this Court by arguing that in this case petitioner has been falsely implicated. Referring to paragraph 18 of the petition, he submitted that the material on record would show that the petitioner had resorted to single firing from rifle in his defence. He stated that there was indiscriminate firing by the informant and the deceased on the vehicle of this petitioner resulting in damage of the vehicle. He further submits that there were several cartridges found at the place of occurrence when the allegation is that only two shots were fired on the informant and his brother. He submits that there are several bullet marks on the innova vehicle of the petitioner and several blood stains were collected. He submits that the FSL Report also suggests that blood stains were there in the vehicle. He submits that injuries were sustained by the petitioner and the medical report furnished also suggests that there were injuries. He submits that in fact as the petitioner was attacked by the informant and his brother, in self defence, the petitioner fired at them, which caused injury on the deceased. The petitioner, thereafter, contacted Sr. SP and A.S.P. of Ranchi and voluntarily appeared before the A.S.P. and thereafter, they were taken in custody. He stated that in the meantime, as per direction of the police officers, he deposited his fire arm along with the cartridges. He submits that the seizure list and FSL Reports will support his contention. He further submits that the police has never investigated the allegation of the petitioner in proper manner and submitted chargesheet against the petitioner. Even the petitioner was prevented from filing a first information report and thus, had to file a complaint case before the Court

below, which is still pending. He submits that the Call Detail Report will also suggest that immediately after the occurrence the petitioner had contacted the Sr. S.P. and had narrated the occurrence. It is also submitted that directions of the superior authorities was not complied by the investigating officer. It is lastly submitted that the prosecution has not come up with clean hands and has suppressed the true facts as to how the occurrence had taken place, thus, he is entitled to be released on bail.

6. Learned A.P.P. assisted by the learned senior counsel appearing on behalf of the informant, submits that the petitioner has submitted 3 before this Court his plea by way of defence, but the fact remains that there are eye witnesses to the occurrence. He further submits that the allegation of attack upon the petitioner by the informant is nothing, but a cooked up story only to save his skin and to wriggle out from this case. He submits that the charge has already been framed in this case where the petitioner only pleaded not guilty and has not taken the plea of right of private defence. It is lastly submitted that the injury upon the petitioner is nothing, but, merely a superfluous injury.

7. After hearing learned counsel for the parties, I find that the prayer of the petitioner was earlier rejected mainly on the ground that there were eye witnesses to the said occurrence. Petitioner is taking a plea wherein petitioner is not denying the occurrence, but has tried to project before this Court that the occurrence had taken place in a different manner and not in the manner as narrated by the informant. He stated that the petitioner and his brother were attacked and in right of private defence, this petitioner fired upon the deceased. In support of his case, the petitioner relies upon the FSL Report, medical report and call details report etc. At the stage of considering the prayer for bail under Section 439 of the Code of Criminal Procedure, I am not discussing the material in detail as the same would prejudice the trial. Whether the petitioner exercised his right of private defence or not and whether he had a right to private defence or not is to be decided by the Trial Court and not by this Court at the stage of considering prayer of bail. What the petitioner pleaded is a disputed question of fact and has to be adjudicated by the Trial Court by taking evidence, which cannot be done by this Court at this stage. The only admitted fact which is mentioned in paragraph 8(iv) of this petition

is that the petitioner has fired a shot from his rifle, which appears to have caused injury on the deceased resulting in his death. Thus, from the admission of the petitioner, it is clear that the petitioner has shot the deceased. Further paragraph 13 of the case diary is the statement of driver of the father of the informant, who stated that how he was taken by the petitioner to know the whereabouts of the informant and thereafter he narrated how the incident has occurred.

8. In view of the aforesaid facts, I am not inclined to enlarge the petitioner on bail. The prayer for bail of the petitioner is, accordingly, rejected. Since charge has already been framed in this case, it is 4 expected that the Court below will take all endeavour to conclude the trial at the earliest. This petition, thus, stands dismissed. (Ananda Sen, J.) Kumar/Cp-03

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