

Arising Out of PS.Case No. -83 Year- 2015 Thana -PHULWARIA District- GOPALGANJ

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- .... .... Petitioner/s

## 1. The State of Bihar

.... .... Opposite Party/s

For the Petitioner/s : Mr. Akhilesh Kumar, Advocate

For the Opposite Party/s : Mr. Parmeshwar Mehta, APP

4 28-01-2016

Heard learned counsel for the petitioner and

the learned APP for the State.

Petitioner no. 1 has since been arrested and the application with regard to petitioner no. 1 has become infructuous by order dated 05.01.2016 itself.

Now the sole petitioner, petitioner no. 2 apprehends arrest in connection with Phulwaria P.S. Case No. 83/15 for the offences alleged under Sections 25(1-B) a/26/35 of the Arms Act.

The prosecution case is that on 09.06.2015 the informant S.I.-cum-Officer-in-Charge, Phulwaria Police Station received telephonic information from Munna Kuwar that he along with his uncle (petitioner no. 2) detained a



person, namely, Sabir Ansari with a country-made Katta in a room. The informant reached there and taking keys from the children of Munna Kunwar, who were available there, opened the door of the room, found a loaded country-made Katta and a live cartridge lying in the room and an injured person, namely, Sabir Ansari was there, who stated that petitioners had beaten him and gave a Katta and the cartridge to implicate him and on his refusal, he was kept locked in the room with the said Katta. The seizure-list was prepared in presence of two witnesses.

It has been submitted by the learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the said case. It has further been submitted that on the telephone call of Munna Kunwar police party arrived at the place of occurrence where the petitioner along with other co-accused had kept Sabir Ansari, a hardened criminal, locked in a room, who was armed with one loaded Katta with live cartridge. Learned counsel for the petitioner further submits that the said Sabir Ansari was hired by one Loha Choudhary, who was himself a hardened criminal and inimical to the petitioner and other co-accused. It has been submitted by the counsel for the petitioner that there is a counter-case in which said Loha Choudhary had tried to kill

the father of Munna Kuwer, who sustained injury and a formal F.I.R. being Phulwaria P.S. Case No. 48/15 has been lodged against said Loha Choudhary, who was on close terms with said Sabir Ansari. Furthermore, the learned counsel for the petitioner submits that no overt act has been alleged against these petitioners.

Learned APP, however, submits that as per the seizure-list, which finds place in Paragraphs 24 and 25 of the case diary, that illegal loaded Katta with live cartridge were seized from the Baithka of petitioner and the injured Sabir Ansari was also held up in a room by the petitioner and other co-accused.

Be that as it may, let petitioner no. 2, namely, Santosh Kuwar, sole petitioner in the event of arrest or surrender before the court below, within a period of eight weeks from today, 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 Chief Judicial Magistrate, Gopalganj in connection with Phulwaria P.S. Case No. 83/15, subject to the conditions as laid down under Section 438(2) Cr.P.C. However, it is made clear that since petitioner is accused in other cases of similar nature, if in future the

petitioner is found to have indulged in a case of similar nature, the learned court below will be at liberty to cancel the bail bond of petitioner no. 2 without being prejudiced with this order.

(Nilu Agrawal, J)

Rajesh/-

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