

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.28815 of 2018

Arising Out of PS.Case No. -64 Year- 2016 Thana -SISWAN District- SIWAN

=====

Raish Khan @ Raiesh Khan S/o Late Kamrul Haque @ Late Kamarul Haque Khan, R/o Vill.- Geyaspur, P.S.- Siswan, District- Siwan.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Anuj Kumar

For the Opposite Party/s : Mr. Nand Kumar

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

5 19-07-2018

Heard.

The petitioner seeks regular bail in connection with Siswan P.S. Case No. 64 of 2016 for the offences punishable under Sections 353, 307/35 of the Indian Penal Code and Section 27 of the Arms Act.

The allegation in the present case is regarding the accused persons including the petitioner herein having engaged in indiscriminate firing on the police party and subsequently when the petitioner herein and others were apprehended by the police, a loaded regular carbine, extra loaded magazine of carbine and a hand grenade were recovered from the possession of the present petitioner.

The learned senior counsel for the petitioner has submitted that the ingredients of section 307 I.P.C. is not satisfied with the present case, hence no offence is made out as far as the petitioner is concerned, inasmuch as there is no injury said to have



been received by the police personnel. It is further submitted that the petitioner is languishing in custody since more than 2 years.

I have perused the material available on record and I find that the petitioner is a habitual criminal and as many as 62 criminal cases are pending against the petitioner herein, although it is submitted by the learned senior counsel that in many cases the petitioner has been acquitted.

It is a trite law that in such cases, apart from the allegations levelled in the F.I.R. in the present case, it will have to be seen as to whether the personal liberty of the accused is prime or the welfare of the public at large is of greater importance. In the present case social concern deserves to be given priority over lifting restriction of liberty of the accused in view of the fact that the petitioner is a veteran criminal. Reference in this regard be had to a judgment reported in (2012) 9 SCC 446 **Ash Mohammad Vs. Shiv Raj Singh @ Lalla Babu & Anr..**

Having regard to the facts and circumstances of the case, I do not find any reason for granting regular bail to the petitioner herein.

Accordingly, the present petition is dismissed at this stage.

(Mohit Kumar Shah, J)

B.Tiwary/ Md. Rashid

U		T	
---	--	---	--

