

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.28 of 2020

In
CRIMINAL MISCELLANEOUS No.78794 of 2019

Arising Out of PS. Case No.-644 Year-2018 Thana- BHABHUA District- Kaimur (Bhabua)

Kamla Kant Tiwari @ Kamal Kant Tiwari Son of Bhikhari Tiwari Resident of
Village - Naraw, P.S.- Bhabua, District - Kaimur at Bhabua

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate
For the Respondent/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 12-06-2020 This matter has been taken up through Video Conferencing.

Heard the parties.

The petitioner faced trial in connection with Bhabhua P.S. Case No.644 of 2018 and was sentenced to go rigorous imprisonment of two years and six months besides fine of Rs.3000/- (Three thousand) for offences under Sections 25(1-B)a/35 of the Arms Act. The petitioner challenged the aforesaid conviction in Cr. Appeal No.60 of 2019 before the Sessions Judge, Kaimur at Bhabua, on the ground of lack of material to prove a case beyond reasonable doubt in absence of several lapses in the prosecution case in the matter of search and seizure and production of the seized material before the Court. The



lower appellate Court has refused the prayer for bail to the petitioner by the impugned order dated 30.09.2019.

Initially a criminal miscellaneous application was filed which was converted into the present criminal revision application in pursuance of the order dated 03.12.2019.

Against refusal of prayer for bail by the appellate Court in appeal against conviction an application under sub-section (2) of Section 389 Cr.P.C. is maintainable. Therefore, evidently the said application would be registered as criminal miscellaneous application for bail and not an application under Section 397 read with Section 401 Cr.P.C. However, once the matter has been converted into a criminal revision by order of the Bench and this Court has jurisdiction to entertain this application, this bail order is being passed in this criminal revision application itself, in spite of the pending issue as to the nature of nomenclature of such petition which is already pending consideration before the High Court in the administrative side. The Hon'ble Committee of Judges assigned with the task is requested to expedite and dissolve the matter at the earliest.

Let a copy of this order be placed before the Hon'ble Committee.



Petitioner is in custody since 08.09.2018. Co-convict has already been allowed bail.

Since the petitioner has served out major portion of the sentence awarded, let the petitioner, above name, be released on execution of bond along with two sureties of Rs.20,000/- (Twenty thousand) each, till pendency of this application, to the satisfaction of the learned Court-below where the case is pending arising out of Bhabua P.S. Case No.644 of 2018, corresponding to Cr. Appeal No.60 of 2019.

(Birendra Kumar, J)

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