

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.5876 of 2020**

Arising Out of PS. Case No.-83 Year-2019 Thana- PIRI BAZAR District- Lakhisarai

Rupesh Kumar @ Rupesh Mahto, S/o Harshit Narayan Mahto, Resident of
Village- Bariyarpur, P.S.- Piri Bazar, Distt- Lakhisarai.... .. Petitioner
Versus

The State of Bihar Opposite Party

Appearance :

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

For the Opposite Party/s : Mr. Akhileshwar Dayal, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 25-09-2020 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

The petitioner in the present case are seeking pre-arrest bail in connection with Piri Bazar P.S. Case No. 83 of 2019 registered for the offences punishable under Sections 147, 148, 149, 307, 353 of the Indian Penal Code, Section 27 of the Arms Act and Sections 16, 17, 18, 20, 23 and 28 of the U.A. P. Act.

Learned counsel for the petitioner submits that although the petitioner is named in the First Information Report one amongst the sixty persons against whom there are general and omnibus allegations that all are members of the Naxal organization and they had been involved in firing on the police party attempted to raid the area in question, the fact remains that there is neither any identification of the petitioner by any of the members of the police party nor any of the members of the police party have got any injury in course of the alleged firing by sixty persons.

It is further submitted that according to the First Information



Report the firing was coming from Pahadi area, therefore, it is the submission of the petitioner that it is not possible for anybody to identify sixty persons.

Learned counsel submits that police has arrested two persons and seized 11 empty cartridges of AK 47 rifles and some household goods at the instance of those persons who were allegedly arrested. It is further submitted that the petitioner has got no criminal antecedent and it is nothing but a case of false and over-implication on mere suspicion.

Mr. Akhileshwar Dayal, learned APP for the State has gone through the case diary and submitted that in course of investigation the name of the petitioner has come as Bolero driver and the same Bolero had been used for carrying some household goods which were arranged by the arrested persons of the Naxal organization, so far as criminal antecedent is concerned, there is no criminal antecedent of the petitioner and otherwise no independent identification that the petitioner was involved in firing.

Having regard to the facts and circumstances of the case, the submission that the petitioner is named one amongst the sixty persons in the FIR, there is no identification of the petitioner save and except that his name has been mentioned in the list of sixty persons and that the allegation is that sixty persons were firing but Police has allegedly recovered only 11 empty cartridges and some household goods and there is no specific allegation even in the confessional statement of the co-accused who was arrested that the petitioner was involved in firing, there being no other criminal antecedent of the petitioner, let the



petitioner above named be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Lakhisarai in connection with Piri Bazar P.S. Case No. 83 of 2019, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

