

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 13492 of 2020

Arising Out of PS. Case No.-486 Year-2019 Thana- KORHA District- Katihar

MD. JAUBER @ HADDI, Son of Md. Islam @ Ashlam, Resident of Village -
Baigna, P.S.- Katihar (Town), Dist.- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh

For the Opposite Party/s : Mr.Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 05-06-2020 This case has been heard through Video Conferencing.

Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner seeks bail in a case registered for the offence
punishable under Sections 393/307 of the Indian Penal Code as
well as 27 of the Arms Act.

The prosecution case is that one Md. Aftab Alam recorded
his fardbeyan before the S.I. cum S.H.O. of Korha P.S. at
K.M.C.H. on 27.11.2019 at about 00.10 hrs. in Emergency Ward
whereby and whereunder he has categorically alleged that he
(informant) had given his Tempo to one Raj Kumar Agrawal
(Prabhu Enterprises/Medical Agency) on daily wages system and
he used to go alongwith Staff of Raj Kumar Agrawal for
Distribution of Medicine and collecting the money at different
place. It is further alleged that on the date of occurrence i.e.
26.11.2019 the informant alongwith staff of Raj Kumar Agrawal



were returning at about 06.45 pm in the way suddenly four unknown miscreants surrounded them and abused by saying that why you did not stop the Tempo and one of the miscreants assaulted to the informant on his neck by means of Katta and other miscreants told to one Jitendra Sarraf, that wherein the Money-Bag upon which the staff denied the same by saying that nothing his kept by him. Thereafter, when the informant tried to proceed by his tempo then one of the miscreants fired by his Katta which hit and cross upon the neck of Jitendra Sarraf. Thereafter, the informant reached at Kolasi Bazar with the injured staff and with the help of other Medicine-Shop-keeper he brought to the injured at K.M.C.H., Katihar.

Learned counsel for the petitioner submits that the petitioner is absolutely innocent and committed no offence as alleged against him in the FIR, rather he has falsely been implicated in the present case only on the basis of mere suspicion by the Police. He submits that from the bare perusal of FIR as well as evidence collected during the course of investigation, it is evident that the petitioner is not named in the FIR. During the course of investigation by the police on the basis of confessional statement of other co-accused namely Md. Gannu. He submits that on the basis of suspicion the police arrested one other co-accused namely Md. Gannu and recorded his confessional statement who



disclosed the name of the petitioner. As such except confession there is not a single *iota* of evidence has been collected against the petitioner by the Investigation Officer and confession before the police is not admissible in the eye of law. He submits that during the course of investigation it is manifest that the allegation of firing is against other co-accused namely Dokwa, who fired to one Jitendra Sarraf as such petitioner is not responsible for the same.

Learned APP vehemently opposes the prayer for bail and submits that the chargesheet has been submitted in this case, but charge has not been framed against the petitioner. He submits that the petitioner is accused in three other cases and in all he is on bail.

Considering the aforesaid facts, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of the petitioner is rejected in connection with Korha P.S. Case No. 486 of 2019 from the Court of learned Chief Judicial Magistrate, Katihar.

The application is dismissed accordingly

However, the petitioner is at liberty to renew his prayer for bail after framing of charge.

(Anjani Kumar Sharan, J)

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