

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23842 of 2020

Arising out of PS. Case No.-46 Year-2020 Thana- BAHERI District- Darbhanga

Md. Kaishar S/o - Salauddin @ Md. Sallauddin @ Faij R/V - Kalyanpur, P.S.
- Kalyanpur, District – Samastipur. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 18-09-2020 The Court proceeding has been conducted through
virtual mode.

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

Since the court proceeding in physical mode is non-
functional, due to present pandemic, COVID-19, the matter is
listed with defects.

Learned counsel for the petitioner undertakes to
remove the defects within three weeks of resumption of court
proceeding in physical mode. In the eventuality of non-removal
of defects within undertaken period, the office will place the
matter before the bench.

The petitioner is languishing in custody since
19.02.2020 in a case registered for the offences punishable
under Sections 25(1-B)a/26/35 of the Arms Act, hence, the
prayer for bail has been made through the present application.



The prosecution case, as per the written report of Binay Kumar Dubey, S.I. submitted to the Station House Officer, Baheri P.S., is to the effect that on 18.02.2020 during the night patrolling, a confidential information was received that two unknown persons are roaming around in a suspicious condition, consequently, a raid was laid and four persons were apprehended, who disclosed their name as co-accused Anil Kumar Singh, Pappu Kumar, Sanni Kumar and Vinesh Kumar Sahni @ Bhulla. From the possession of each of the apprehended co-accused persons, country-made pistols and live cartridges were recovered. Apprehended co-accused persons named two persons as co-accused Raj Kumar Yadav and Md. Kaishar, the petitioner who used to facilitate the commission of the offence.

It is submitted by learned counsel for the petitioner that there is no recovery from the possession of the petitioner and investigation has already been concluded. A statement has been made in paragraph no. 3 of the petition that the petitioner is accused in two other cases but it is orally submitted that the petitioner is on bail in both the cases though statement to that effect has not been made in paragraph no. 3 and FIR named co-accused Binesh Sahni has been granted bail vide order dated



02.07.2020 passed in Cr. Misc. No. 21761 of 2020 by a Co-ordinate bench of this Court.

Learned APP for the State submits that the name of the petitioner sprang up on the basis of statement of apprehended co-accused.

Considering the fact that there is no recovery from the possession of the petitioner and FIR named co-accused Binesh Sahni has been granted bail by a Co-ordinate bench of this Court and investigation has already been concluded, let the petitioner above named be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Chief Judicial Magistrate-IX, Darbhanga in connection with Baheri P.S. Case No. 46 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on



furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-IX, Darbhanga in connection with Baheri P.S. Case No. 46 of 2020.

The learned Court below is at liberty to further extend the period of provisional bail if the court proceeding in physical mode will not resume in next three months.

Accordingly, the application stands disposed of.

(Dinesh Kumar Singh, J)

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