

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22283 of 2020

Arising Out of PS. Case No.-65 Year-2020 Thana- KALYANPUR District- Samastipur

Adarsh Raj Pandey @ Golu Son of Surendra Pandey Resident of Gakhara,
P.S.- Kalyanpur, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 24-08-2020 The Court proceeding has been conducted through
virtual mode.

Heard learned counsel 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
29.03.2020 in a case registered for the offences punishable
under Sections 341, 323, 324, 307, 447, 379, 504/34 of the



Indian Penal Code and Sections 25(1-B)a/27/35 of the Arms Act, hence, the prayer for bail has been made through the present application.

The prosecution case, as per the fardbeyan of Mukesh Kumar Singh recorded by S.I., Ram Naresh Singh on 27.03.2020 at 3.00 P.M. at Camp PHC, Kalyanpur, is to the effect that on the same day at 1.40 P.M., the informant was watching T.V. in his house, in the meantime, the petitioner along with 8-10 persons came at his door and when the informant opened the door, they attacked the informant. The petitioner and others made assault to the informant and resorted to fire. When the informant's wife and daughter-in-law came to rescue him, they were also assaulted. When the son of the informant, Radharaman Kumar Singh came to his rescue, the petitioner fired on him. Subsequently, five accused persons were apprehended and from the possession of the petitioner, one loaded pistol and a Magazine was recovered from the possession of co-accused.

From the pleadings, it appears that the informant is an accused in a case registered under Section 304B of the Indian Penal Code being Kalyanpur P.S. Case No. 175 of 2019 and when the victim of the said case Rupa Devi was subjected to



torture and killing, the petitioner informed her parents and due to this reason, the present false case has been lodged against him. No external or internal injury has been found on the person of the injured and there is no recovery from the possession of the petitioner and hence, the petitioner is entitled for privilege of bail under the provisions of Section 37 of the Arms Act. The investigation has already been concluded and a statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that there is specific accusation of assault against the petitioner and recovery of arms has been made from the petitioner.

Considering the fact that the arms have been seized by the private persons, the investigation has already been concluded, period under custody and statement being made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 Chief Judicial Magistrate, Samastipur in connection with Kalyanpur P.S. Case No. 65 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 Chief Judicial Magistrate, Samastipur in connection with Kalyanpur P.S. Case No. 65 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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