

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.26943 of 2020**

Arising Out of PS. Case No.-47 Year-2020 Thana- RAJGIR District- Nalanda

AKLESH KUMAR Son of Banaras Prasad Yadav @ Banaras Yadav Resident
of Village- Maluka Bigha, P.S.- Warsaliganj, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Anand Kishore Choudhary, APP

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

2 25-11-2020 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within four
weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Anand Kishore Choudhary, learned APP for the State.

The petitioner, in the present case, is seeking pre-
arrest bail in connection with Rajgir P.S. Case No. 47/2020
registered for the offences punishable under Sections 25(1-
b)a/26/35 of the Arms Act.

As per prosecution story, when the informant was on
patrolling duty and checking the vehicles then while colour
Scorpio had came there and on seeing the police party driver of
the vehicle tried to flee away but could not succeed. The
informant had caught three persons from the Scorpio with the



help of police force and on search three live cartridges has been recovered from the vehicle and from the apprehended accused one loaded pistol of 315 bore and one cartridge as also mobile phone have been recovered.

Learned counsel for the petitioner submits that the petitioner has no criminal antecedent, his vehicle was hired/taken by the persons who were found in the vehicle and from whose possession the arms and live cartridges was recovered. Learned counsel submits that this petitioner was not in the vehicle and the provisions of the Arms Act under which the apprehended accused are being prosecuted would not be applicable to the petitioner.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the petitioner that the petitioner has no criminal antecedent, his vehicle was taken away by the persons who were found in the vehicle and from whose possession the arms and live cartridges was recovered, this petitioner was not in the vehicle and the provisions of the Arms Act under which the apprehended accused are being prosecuted would not be applicable to the



petitioner as it is not a case where there is any vicarious liability of the petitioner being owner of the vehicle, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Rajgir P.S. Case No. 47/2020 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, Nalanda, Biharsharif, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the 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;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal



antecedent, the court below shall take step for cancellation of
bail bond of the petitioner.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'

