

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.27309 of 2020**

Arising Out of PS. Case No.-751 Year-2019 Thana- BETTIAH CITY District- West
Champanan

MUNNA PANDEY, Son of Vijay Kishor Pandey @ Vijay Pandey, Resident of
Village- Devgharwa, P.S.- Yogapatti, District- West Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai, Advocate

For the Opposite Party/s : Mr. Manoj Kumar, A.P.P.

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

4 26-11-2020 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within three
weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr.
Manoj Kumar, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Bettiah Town P.S. Case No. 751 of 2019
registered for the offence under Sections 413, 414/34 of the
Indian Penal Code and Sections 25(a-b) a, 26, 35 of the Arms
Act.

Learned counsel for the petitioner submits that as per
the allegations when the informant who is a Police Officer
intercepted the F.I.R. named accused persons including this
petitioner, from the possession of some of them a country made
loaded Katta and motorcycle was recovered. The loaded Katta



was recovered from the possession of co-accused Mahendra Sah, Rohit Patel and from this petitioner. The petitioner moved this Court earlier for grant of regular bail but his prayer for regular bail was rejected vide order dated 06.02.2020 passed in Cr. Misc. No. 6999 of 2020 by a learned co-ordinate Bench of this Court with an observation that in the nature of the allegations the learned co-ordinate Bench was not inclined to grant bail to the petitioner at this stage but once the charge is framed the petitioner would be at liberty to renew his prayer for bail.

Learned counsel submits that in connection with this case the petitioner is in custody since 15.10.2019, in the meantime co-accused Mahendra Sah from whose possession also a loaded country made Katta and live cartridge was recovered has been granted bail by a learned co-ordinate Bench of this Court in Cr. Misc. No. 7166 of 2020. It is submitted that during this pandemic period when the Court is not functioning due to COVID-19 Pandemic and this condition was not envisaged by a learned co-ordinate Bench while rejecting the prayer for bail of the petitioner earlier, it has not become possible till now for the learned court below to frame charges.

Learned counsel submits that for no fault on the part



of the petitioner if the charge is not being framed, his further incarceration only for this reason that the charge has not been framed would be against the spirit of Article 21 of the Constitution of India and it would be nothing but keeping the petitioner by way of punishment.

Learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner by pointing out observation of the learned co-ordinate Bench of this Court that the petitioner may renew his prayer for regular bail after framing of charge but having taken note of this issue when this Court called for a report from the learned trial court vide its order dated 20.10.2020 to know the reasons as to why till date charge has not been framed and the time likely to be taken in proceeding with the matter and framing of the charge, the learned court below has informed vide letter no. 238 dated 21.10.2020, kept at Flag 'R' of the record that the records are pending for appearance of the accused who are on bail and upon appearance of the bailed accused and the submission of the Police papers and commitment of the records only the charges may be framed. No time period has been indicated in the letter of the learned court below.

This Court, therefore, finds that rejection of the prayer



for bail of the petitioner at this stage going by the previous order that he can renew his prayer for bail only after framing of charge would not be in the spirit of the criminal law jurisprudence as it has been held on many occasions that the provision is bail not jail and an accused need not be kept in jail by way of punishment if his presence may be secured without any problem in course of trial.

Considering the aforesaid aspects of the matter, wherein the co-accused similarly situated has already been granted bail and the petitioner has remained in jail for over one year in connection with this case and there is no chance of even framing of charge in near future, this Court directs the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Bettiah Town P.S. Case No. 751 of 2019, subject to the condition as laid down under Section 437 (3) 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, of 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 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.

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)

vats/-

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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'.

