

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.25490 of 2020**

Arising Out of PS. Case No.-43 Year-2016 Thana- BUXAR INDUSTRIAL District- Buxar

SUMIT GUPTA @ SUMIT AGARWAL S/o Raj Kumar Gupta Resident of
Village-Vitain Tola, P.S.-Manduwadih @ Mahuadih in the district of Varanasi
(U.P)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

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

5 07-12-2020 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with S.Tr. No. 261 arising out of Buxar (Industrial) P.S. Case No. 43 of 2016 registered for the offences punishable under Section 399, 402, 420, 467, 468, 272, 273 of the Indian Penal Code, Section 25(1-b)a/26/35 of the Arms Act and Section 47(A) Excise Act.

Learned counsel for the petitioner submits that as per the allegations in the First Information Report this petitioner was arrested with a country-made rifle and one loaded live cartridge. It is alleged that he along with co-accused was under influence of liquor they were planning to commit a dacoity. Learned counsel submits that the seizure list witnesses are not independent and they are members of the police force and both the witnesses are police personnel. It is



submitted that although there are five cases against the petitioner which have been shown in paragraph '3', he has instruction to say that the petitioner is on bail in all those cases. Learned counsel has offered that his statement be recorded on this point that the petitioner is on bail in all those cases.

It is then submitted that in connection with this case the petitioner is in jail for four and half years by now and at this stage not a single witness has been examined in course of trial, therefore, there is no chance of conclusion of trial in near future. It is submitted that the in the nature of the allegations and the offences alleged against the petitioner, the petitioner having remained in jail for more than four and half years, his prayer for regular bail may be considered at this stage.

Learned APP for the State has opposed the prayer for regular bail of the petitioner. It is submitted that the petitioner has been arrested with a country-made rifle and one loaded live cartridge and then considering that he has got criminal antecedents, the petitioner does not deserve privilege of regular bail.

Having regard to the facts and circumstances of the case, wherein this Court has noticed that the petitioner was arrested along with four other co-accused on 03.04.2016 and it is submitted that firearms and/or live cartridges were recovered from their possession also, they have been granted bail by a learned Co-ordinate Bench of this Court in Cri. Misc. No. 29725 of 2016, 32624 of 2016, 4274 of



2017 and 6323 of 2017 and this fact is mentioned in the impugned order also. This Court has further noticed that though the petitioner has remained in jail for four years and eight months by now, trial has yet not begun, there are altogether 13 chargesheeted witnesses and since no witnesses has been examined so far and the trial court is also not regularly functioning and as its working has been hampering due to Covid-19 pandemic, in the facts and circumstances of the case, let the petitioner above-named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each and one of them shall be a local resident having immovable property within the jurisdiction of the learned trial court, to the satisfaction of learned 2nd Additional District and Sessions Judge-cum-Special Judge (Excise), Buxar in connection with S.Tr. No. 261 arising out of Buxa (Industrial) P.S. Case No. 43 of 2016, subject to the conditions as laid down under Section 437(3) of the 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 the petitioner shall appear in course of trial on each and every date fixed in the matter and two consecutive defaults in putting appearance without there being any cogent reason, the learned court below shall take steps to cancel the bail bond of the petitioner.

However, before issuing release order the court below shall obtain an affidavit on behalf of the petitioner that he is on bail in the cases stated in paragraph '3'.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

