

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53866 of 2019

Arising Out of PS. Case No.-377 Year-2017 Thana- CIVIL LINE District- Gaya

GULAM SARWAR KHAN Son of Late Mumtaz Ahmad Khan @ Mumtaz Khan Resident of Village-Sahdeo Khap, P.S.-Magadh University, District-Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Adv

For the Opposite Party/s : Mr. Ram Naresh Ray, APP

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

9 11-09-2020 Heard learned counsel for the parties.

Earlier the bail of the petitioner was rejected vide order dated 26.11.2018 in Criminal Miscellaneous No. 51732 of 2018.

Petitioner who is in custody seeks bail in a case registered for the offence punishable under Sections 216, 120B, 124A/34 of the Indian Penal Code and Section 13, 16, 18, 19, 20 and 38 of Unlawful Activities Act.

Informant who is a police officer has alleged in his FIR that that on receiving information from higher authorities that one person is moving in suspicious manner in Gaya town and upon getting said information he along with other police personnel started search for said suspect and found two persons



going on a rickshaw who tried to escape on seeing police but were nabbed after chase who initially disclosed their name as Atik and Sehanshah but subsequently disclosed their name as Taushif Khan and Sanna Khan who were apprehended on 13.09.2017, and objectionable articles from their possession were seized. Taushif Khan also disclosed that he is an accused in Ahemdabad Serial Bomb Blast of 2008 and is an active member of banned organization SIMMI, and thereafter fled away from Gujarat and took shelter in the house of petitioner and also started working as a teacher in the school of petitioner. Sanna Khan resided near the school who got influenced with his Islamic activities.

Chargesheet was submitted on 26.09.2017.

It has been submitted on behalf of petitioner that except confessional statement of Pathan Tausif Khan and Shahanshah @ Sanna Khan before the police there is nothing to show that the petitioner kept Pathan Tausif Khan with knowledge that he was absconding accused of Gujarat Serial Bomb Blast and he is active member of SIMMI organization. Nothing has been recovered from the possession of the petitioner nor any incriminating material has been recovered which proves that petitioner is active member of SIMMI or had



any knowledge that Pathan Tausif Khan was the accused of Gujarat Serial Bomb Blast. Petitioner is headmaster of Govt. Primary School, Nimhar Gaya. Learned counsel for the petitioner further submits that petitioner is in custody since 14.09.2017 and he has been sufficiently penalized for his deeds.

A report was called for stage of trial from the trial court and it has been reported that accused Pathan Taufiq Khan is in custody in Sabarmati Jail, Ahemdabad and production warrant was sent to Sabarmati jail several times for production of aforesaid accused, for framing of charge, but accused could not be produced in this case as a result charge could not be framed. It was informed by Sabarmati Jail, Ahemdabad that it is difficult to produce the accused in Gaya jail for security reasons. However, he can be produced through video conferencing.

Considering the aforesaid facts and circumstances of the case, let the petitioner named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending, in connection with **Civil Lines P.S. Case No. 377 of 2017**, with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned and one of the bailor should be his wife.

(2) Petitioner shall co-operate in the trial and shall



be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the court below.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) Petitioner is directed to mark his presence in Civil Lines P.S. Gaya after his release on bail on 15th and 30th day of every month.

(S. Kumar, J)

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