

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78323 of 2019

Arising Out of PS. Case No.-243 Year-2010 Thana- MADANPUR District- Aurangabad

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YOGENDRA RAJAK @ CHOTTU JI @ YOGENDRA BAITHA Son of
Ramnandan Baitha Resident of Village - Kauakhap, P.S.- Rafiganj, Distt.-
Aurangabad. (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs.Alka Singh

Mr. Amrendra Singh

For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 07-07-2020 The matter has been taken up through virtual Court
proceeding.

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is languishing in jail since 16.7.2018 in a
case registered for the offences punishable under Sections
147,148,149,447,323,504,342,435 and 427 of the IPC Section
27 of the Arms Act and Section 17 of the Criminal Law
Amendment Act. Hence, prayer for bail has been made through
the present application.

The prosecution case, as per the fardbeyan of Nasir Khan
recorded by S.I.-cum-SHO J.P Singh, SHO, Madanpur Police
Station on 8.11.2010 at 7.30 A.M. in the premises of Idea



Mobile Tower situated at village Uchauli, is to the effect that on 7.11.2010, the informant was sleeping in the premises of Idea Mobile Tower, which is constructed on the land of the informant since the security guard, Dhananjay Mishra was on leave on that day. At about 9.45 P.M., 40-50 unknown persons came, assaulted to the informant and put the mobile tower on fire, leading to registration of FIR against 40-50 persons. Name of the petitioner sprang up on the basis of the information supplied by a spy and on the confession of co-accused Lala Yadav.

It is submitted by learned counsel for the petitioner that there is no recovery from possession of the petitioner. The investigation has already been concluded and the petitioner has not been put on Test Identification parade. Statement to that effect has been made in paragraph 10 of the petition, which reads as follows:

“That neither there is any recovery from the petitioner nor has the petitioner been put on T.I. Parade.”

Though the petitioner is accused in six other cases but in all those cases, the name of the petitioner sprang up on suspicion and on the basis of confession of co-accused. It is further submitted that name of the petitioner sprang up on the confession of co-accused Lala Yadav, who has been granted bail



by a Co-ordinate bench of this Court vide order dated 29.2.2016 passed in Cr. Misc. No. 8630 of 2016, as contained in Annexure 2 series. It is further submitted that other co-accused persons whose names also sprang up during investigation, have been granted bail vide Cr. Misc. Nos. 18634 of 2016, 18772 of 2018 and 6034 of 2019 by Co-ordinate benches of this Court.

Learned APP submits that the name of the petitioner sprang up during investigation and he is having criminal antecedent.

Considering the fact that name of the petitioner sprang up much after registration of the FIR, no recovery from the possession of the petitioner, and co-accused Lala Yadav who named the petitioner, has already been granted bail by a co-ordinate bench of this Court, investigation already being concluded, coupled with the period in custody, 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 CJM, Aurangabad in connection with Madanpur P.S. Case No. 243 of 2010.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on 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 of the like amount each to the satisfaction of the learned CJM, Aurangabad including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.

This application is accordingly disposed of.

(Dinesh Kumar Singh, J)

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