

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81738 of 2019

Arising Out of PS. Case No.-561 Year-2019 Thana- DANAPUR District- Patna

Vijay Kumar S/o- Padarath Rai @ Ram Padarath Rai R/o- Janta Road, P.S.-
Gardanibagh, Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Bindeshwari Kumar Singh, Sr. Advocate Mr. Sanjay Kumar @ Manu, Advocate
For the Opposite Party/s	:	Mr. Mohammed Arif, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 20-03-2020 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

The petitioner is languishing in custody for the offences punishable under Sections 302/120B/224/353/307/34 of the Indian Penal Code and Sections 25(1-b)a/26/27/35 of the Arms Act.

Informant is a police constable. A prisoner Miraj Imam was produced in Danapur Civil Court. Miraj Imam started fleeing from the police custody. When the police chased an unknown criminal associate handed over pistol to Miraj and Miraj fired at the policeman, who was chasing him, and the said policeman sustained injury but Miraj was



apprehended by other constable. During investigation co-accused Md. Anwar Hussain, who was an advocate clerk, stated that in conspiracy with the wife of Miraj Imam to manage escape of Miraj he had obtained motorcycle and firearms from this petitioner and has given effect to the act alleged.

Learned counsel for the petitioner submits that petitioner is in custody since 31.07.2019. Investigation of the case is already complete. The petitioner was never put on Test Identification Parade to substantiate whether he was present at the time of occurrence to help Miraj. The confession of co-accused before the police cannot be proved in view of the bar under Sections 25 and 26 of the Evidence Act. Besides the aforesaid there is no other material against the petitioner.

Learned Additional Public Prosecutor opposed the prayer for bail on the basis of seriousness of the act alleged in the FIR as well as on the ground that a coordinate Bench of this Court has already refused bail to Md. Anwar Hussain in Cr. Misc. No.77550 of 2019.

I have gone through the order passed by the coordinate Bench by which the prayer for bail was refused on



the ground that the allegation was of involvement in hatching conspiracy to help co-accused Miraj from fleeing away out of the custody of the police.

It is difficult to prove conspiracy in absence of cogent and reliable evidence. Even if the statement of the co-accused that he took help of the motorcycle and fire-arm of the petitioner is accepted, that cannot make out a case of criminal conspiracy for a particular purpose.

Therefore, in my opinion, the petitioner deserves bail. Accordingly, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Danapur P.S. Case No.561 of 2019, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The petitioner shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(c) The petitioner shall not leave the country without permission of the trial Court.



The observation made above shall not prejudice the
mind of the learned trial Judge.

(Birendra Kumar, J)

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