

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86471 of 2019

Arising Out of PS. Case No.-201 Year-2019 Thana- AIRPORT District- Patna

=====

MOHAMMAD EZAZ @ MD. EAJAJ Son of Md. Nayeem Resident of
Muslim Road, P.S.- Godapuri, District - Nawada, At present Sabzibagh,
Qutubuddin Lane Render of Jamil, P.S.- Pirbahore, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Mouar

For the Opposite Party/s : Mr. Uma Shankar Pd. Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 05-06-2020 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 25.7.2019 in a
case registered for the offences punishable under Sections 25(1-
B) a and 26 of the Arms Act.

The prosecution case, as per the written report of Jai
Shankar Prasad, SI of Police of Hawaii Adda Police Station



submitted to the J.M. Ist Class, Patna, is to the effect that on 25.7.2019 at 8.52 A.M., Rupesh Kumar, Airport Manager, Indigo Airlines informed through mobile phone that during screening, a country made pistol has been recovered from possession of one of the passengers who was in process of being checked in. The passenger disclosed his name as Mohammad Ezaz alias Md. Ejaj (petitioner). Thereafter, the informant, being police officer, reached at the spot, made seizure and registered the FIR and the petitioner was arrested.

It is submitted by learned counsel for the petitioner that in the present case, the seizure was made by a private person Rupesh Kumar, hence the petitioner is entitled for being released under the provisions of Section 37 of the Arms Act, 1959. Statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent. The investigation has already been concluded.

Learned APP submits that it is not simple recovery of the arms but the petitioner had planned to travel with arms through airlines and to jeopardize the lives of every passenger and staff and the seizure of arms from the possession of the petitioner cannot be treated by a private person.

Considering the rival submissions of learned counsels



for the parties, this Court is of the view that the petitioner does not deny the recovery, the petitioner had the audacity to travel through airlines carrying country made pistol jeopardizing the lives of several passengers. Though statement has been made in paragraph 3 of the petition that the petitioner is not having any criminal antecedent, but this Court has little sympathy for such person.

Section 37 of the Arms Act, 1959 suggests that if any person is arrested with any arms seized under this Act, by a person not being a Magistrate or a police officer, shall be delivered without delay to the officer-in-charge of the nearest police station and that police officer shall either release that person on his executing a bond with or without sureties to appear before a Magistrate and keep the things seized in his custody till the appearance of that person before the Magistrate.

In the present case, the actual seizure has been made by Jai Shankar Prasad, S.I. of Police, Hawai Adda Police Station who is the informant of this case also, which gets reflected from the seizure list. Hence, the petitioner, in view of this Court, cannot claim the immunity as envisaged under Section 37 of the Arms Act.

Considering the gravity of the nature of accusation,



this court is not inclined to grant bail to the petitioner. Prayer of the petitioner for bail in connection with Hawaii Adda P.S. Case No. 201 of 2019 pending in the Court of learned J.M. Ist Class, Patna is rejected.

However, let the trial be expedited.

(Dinesh Kumar Singh, J)

anil/-

U			
---	--	--	--

