

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16768 of 2021**

Arising Out of PS. Case No.-89 Year-2020 Thana- ASARGANJ District- Munger

Md. Mahfooz @ Mahi, Aged about 32 years, Son of Md. Sudan @ Md. Shamser, Resident of Village/ Mohalla- Mirzapur, Bardah, Police Station- Mufassil, District- Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjiv Kumar Singh, Advocate
For the State : Mr. Zainul Abedin, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 26-08-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.

3. Heard Mr. Sanjiv Kumar Singh, learned counsel for the petitioner and Mr. Zainul Abedin, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

4. The petitioner apprehends arrest in connection with Asarganj PS Case No. 89 of 2020 dated 29.09.2020, instituted under Sections 25(1-AA)/25(1-AA)/25(1-B)(a)/26(i)(ii)/35 of the Arms Act, 1959.

5. As pr the FIR, when the police, on information on 28.09.2020 at 10:20 pm in the night, that some arms smugglers



were going to Banka from Sultanganj with arms, reached the spot and started checking vehicles, five persons on two motorcycles who were coming from Sultanganj and going to Asarganj, intercepted but only two persons were caught and three managed to escape and the arrested persons disclosed their names as Raman Kumar Sharma and Rahul Pandey and on search from them two country made pistols and some cartridges were found from the possession of Raman Kumar Sharma and one country made pistol and some cartridges were found from the possession of Rahul Pandey and they disclosed that the petitioner was one of the persons who had fled away. The allegation basically is that the petitioner was also involved in the business/trade of firearms.

6. Learned counsel for the petitioner submitted that he has no criminal antecedent and has been falsely implicated, that too, on the statement made by the arrested co-accused before the police, which is inadmissible in law. It was submitted that there is nothing to connect the petitioner with the recovery of arms or with any illegal trade in firearms.

7. Learned APP submitted that the arrested persons have taken the name of the petitioner as one of the persons who had fled away.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the fact that the petitioner's name has transpired in the statement of the arrested co-accused before the police and there being no criminal antecedent of the petitioner, the Court is inclined to allow the prayer for pre-arrest bail.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate II, Munger in G.R. No. 1776 of 2020 arising out of Asarganj PS Case No. 89 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the



undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

11. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

