

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17889 of 2021**

Arising Out of PS. Case No.-328 Year-2019 Thana- ARA NAGAR District- Bhojpur

GORAKH MAHTO Son of Kamta Mahto @ Kamta Prasad Resident of
Village- Ibrahim Nagar, Police Station- Ara Town, District- Bhojpur.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate

For the Opposite Party/s : Mr. Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 02-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

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

Petitioner in the present case is seeking regular bail in connection with Ara Nagar P.S. Case No. 328 of 2019 registered for the offences punishable under Sections 353, 307 and 34 of the Indian Penal Code and Section 27 of the Arms Act.

As per the prosecution story the police got secret information that two persons at Sanjay Gandhi College, Dharhara were planning to commit an offence. The police reached at the said place and saw two persons talking to each



other. On seeing the police party, both the persons tried to flee away and when the police chased them they opened fire. One of them succeeded in fleeing away but one person was apprehended and disclosed his name Gorakh Mahto (this petitioner) and one country-made pistol and one live cartridge was recovered from his possession.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that the allegation is that when the police chased the petitioner he started firing upon the police party but neither any empty cartridge had been recovered nor anybody has got injured and there is no independent witness to this occurrence rather witnesses are police personnel. Learned counsel submits that the petitioner is in custody since 20.12.2019

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the petitioner that for the same occurrence police has registered two cases on the same date, one of which has been registered specific under the Arms Act and that in the F.I.R. it is stated that



two independent persons were requested to become witness but in the seizure list it may be found that the two constables are witnesses, so far as the present case is concerned, it is one under Section 353 and 307/34 of the Indian Penal Code, the allegation is that when the police party were chasing the petitioner he was firing upon the police party but neither any empty cartridge had been recovered nor anybody has got injury, the petitioner has remained in custody in connection with the present case for about one and a half year, investigation against him is complete and but the trial is not likely to be concluded in near future, in the cases stated in paragraph '3', he is said to be on bail, in the circumstances let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara in connection with Ara Nagar P.S. Case No. 328 of 2019 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of



the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

