

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11938 of 2020

Arising Out of PS. Case No.-613 Year-2018 Thana- PHULWARISHARIF District- Patna

MD. NEHAL @ NEHAL Son of Md. Kallu @ Kallu Resident of Village -
Murgiya, Tola Ishopur, P.S.- Phulwarisharif, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bal Govind Sharma

For the Opposite Party/s : Mr.Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 12-01-2021 Heard the learned counsel for the petitioner and

Sri Ram Anurag Singh, the learned APP for the State.

The present petition is by way of third attempt at the behest of the petitioner for grant of bail in connection with Phulwarisharif PS case no. 613 of 2018 under Sections 399, 402, 414 of Indian Penal Code and 25(1-B)a, 26, 35 of Arms Act, inasmuch his prayer for regular bail has already stood rejected twice i.e. firstly by an order dated 27.02.2019, passed in Cr. Misc. no. 10930 of 2019 and thereafter, by an order dated 04.09.2019, passed in Cr. Misc. no. 53878 of 2019.

The case of the prosecution in brief is that while the informant and his associates were on patrolling duty on 16.08.2018 and when they had reached near Fulliya Tola at



about 7.30 pm, they saw 10-15 persons to be present on 4-5 vehicles and when they were questioned, they tried to flee away, however some of them were caught and arrested by the police. Thereafter, the apprehended accused persons were searched as also their houses and vehicles were raided and huge amount of cash money was recovered from various accused persons apart from recovery of arms, iron cutter glander machine, iron cutter and glander plate, iron rods, hammer, wire cutter, number plates of vehicles, screw driver, Yamha motorcycle, Scorpio jeep and several mobiles, as is apparent from the seizure list. The specific allegation as against the petitioner herein is regarding recovery of one pistol with live cartridges, two mobile sets and a sum of Rs. 2,80,000/- in cash, for which no satisfactory reply could be given by the petitioner herein.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and is languishing in custody since 18.08.2018. It is further submitted that similarly situated co-accused person has already been granted bail by a co-ordinate Bench of this Court vide order dated 25.04.2019, passed in Cr. Misc. no. 12182 of 2019.



Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

This Court finds that not only the complicity of the petitioner is writ large in the present case but illegal arms and cartridges were also recovered from the petitioner apart from recovery of unexplained huge amount of cash money. The petitioner is stated to be an accused in 14 other criminal cases, hence, has a very bad criminal antecedent, which alone is enough to disentitle the petitioner for grant of the privilege of bail. In this connection, reference be had to a judgment rendered by the Hon'ble Apex Court, reported in **(2012) 9 SCC 446 (Ash Mohammad v. Shiv Raj Singh and Another)** wherein the Hon'ble Apex Court has held that criminal antecedents of an accused are also to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty and further social concern deserves to be given priority over lifting the restriction on liberty of the accused in such cases.

Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any change in circumstance so as to re-consider the case of the



petitioner for grant of regular bail, accordingly the present
petition stands dismissed.

(Mohit Kumar Shah, J)

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