

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37678 of 2021

Arising Out of PS. Case No.-46 Year-2021 Thana- GAYA KOTWALI District- Gaya

Ajay Kumar @ Ajay Sharma, aged about 51 years, Male Son of Sri Chandrabhusan Sharma, Resident of AP Colony, PS- Rampur, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Senior Advocate with Mr. Lakshmi Kant Sharma, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 07-10-2021

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.

2. Heard Mr. Ramakant Sharma, learned senior counsel along with Mr. Lakshmi Kant Sharma, learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Gaya Kotwali PS Case No. 46 of 2021 dated 04.02.2021, instituted under Sections 25(1-B)a, 26 and 35 of the Arms Act, 1959.



4. The petitioner, though not named in the FIR has been made an accused on the basis of confessional statement of co-accused, who was caught, that earlier he had sold a firearm to the petitioner.

5. Learned counsel for the petitioner submitted that on such flimsy and extraneous ground making the petitioner an accused is clearly abuse of the process of the Court. It was submitted that the petitioner has no criminal antecedent and has never been party to any illegal transaction, much less in firearm.

6. Learned APP could not controvert the fact that the petitioner has been made accused later on only on the basis of such statement of co-accused that earlier he had sold a firearm to him.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the petitioner being implicated only on the ground that the arrested accused had said that earlier he had sold firearm to him and he having no criminal antecedent, the Court is inclined to allow the prayer for pre-arrest bail.

8. 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 Chief Judicial Magistrate, Gaya in Gaya Kotwali PS Case No. 46 of 2021, 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.

9. 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.



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

(Ahsanuddin Amanullah, J.)

P. Kumar

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