

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32212 of 2020

Arising Out of PS. Case No.-187 Year-2018 Thana- KOCHADHAMAN District- Kishanganj

Jawadul @ Jawadul Hak, aged about 62 years, Male, son of late Khairuddin
@ Sheruddin, resident of village - Mirzapur, P.S.-Routa, Distt.- Purnia.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar, Advocate
For the State : Mr. Ajay Kumar No. 2, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 01-02-2021

Heard Mr. Pankaj Kumar, learned counsel for the petitioner and Mr. Ajay Kumar No.2, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Kochadhaman PS Case No.187 of 2018 dated 09.10.2018, instituted under Sections 395/397 of the Indian Penal Code; 27 of the Arms Act, 1959 and 3/4 of the Explosives Substances Act, 1908.

3. Though the FIR is against unknown persons, but the petitioner has been made accused and also arrested as he was seen by witnesses talking with other co-accused persons and having antecedent of cases against him of similar nature.



4. Learned counsel for the petitioner submitted that without any legal evidence against him, he has been arrested on an illegal ground that he has antecedent of similar nature. Learned counsel submitted that the only thing which has come during investigation is that some of the witnesses have stated that the petitioner and others were seen talking at the *haat* before the commission of the offence. It was submitted that the petitioner has four other cases against him, but in three, he has been acquitted and in one case of the year 2007, he is on bail and trial is going on. It was further submitted that there has been no Test Identification Parade (hereinafter referred to as the 'TIP') in the case despite the informant claiming that he could recognize the culprits. Learned counsel submitted that the name of the petitioner surfacing is said to be on secret information without disclosing the source and only because the petitioner carries antecedent of cases of similar nature, but nothing has come to connect him to the present crime. Learned counsel submitted that the petitioner is in custody since 31.05.2020.

5. Learned APP, from the case diary, submitted that witnesses have stated that the petitioner along with others was seen talking to each other on the day of the incident at the *haat*. Learned APP further submitted that the Superintendent of



Police, Kishanganj, has informed him that the informant is not ready to go for TIP.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let 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 Chief Judicial Magistrate, Kishanganj, in Kochadhaman PS Case No.187 of 2018, subject to the conditions (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.

7. The application stands disposed off in the



aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

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