

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43511 of 2021**

Arising Out of PS. Case No.-138 Year-2021 Thana- GAYA MUFASIL District- Gaya

Nagendra Kumar, Son of Ramashish Sharma Resident of Village - Tetariya,
P.S.- Tekari, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Navideta Nirvikar, Advocate Mr. Ram Sevak Choudhary, Advocate
For the State	:	Md. Mustaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

2 09-12-2021 This bail application is taken up out of turn for hearing as marriage ceremony of daughter of the applicant is going to be held on 13.12.2021.

The applicant/accused in Crime No. 138 of 2021 registered with Muffasil Police Station for the offences punishable under Sections 25(1-b)a, 26, 27 and 35 of the Arms Act at the instance of first informant Avinash Kumar - PSO, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. She argued that the seized arms, as seen from the licenses annexed to the application were licensed arms and those came to be seized from the barrack used by the



guards of Katyani Constructions Private Limited. It is further argued that though the case of the prosecution is cross firing in between employees of the construction company and the villagers, no empties were recovered from the spot or from the barrack. It is further argued that the investigation of the crime in question is over and further pretrial detention of the applicant is not warranted.

The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious and large number of arms came to be seized during the course of the investigation.

I have considered the submissions so advanced and perused the materials placed before me.

The FIR itself contains that a recital that there was cross firing between the villager and the guards of the Katyani Constructions Private Limited. The applicant along with one another accused came to be apprehended from the barrack of the construction company where the guards used to reside. It is seen from the annexures to the application that the barrack was used by several armed guards for their stay. Copy of the arm licences are also annexed to the application. The certificate of the Security Agency shows that the applicant was deputed as a



guard at Katyani Constructions Private Limited. On this factual background reflected from the papers of investigation as well as the fact that the investigation of the crime in question is already over, further pretrial detention of the applicant is not warranted. The applicant is not having any criminal antecedents. Therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 138 of 2021 registered with Muffasil Police Station for the offences punishable under Sections 25(1-b)a, 26, 27 and 35 of the Arms Act be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Thousand Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this



case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the appellant/accused.

(A. M. Badar, J)

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