

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31837 of 2020

Arising Out of PS. Case No.-564 Year-2019 Thana- PURNEA SADAR District- Purnia

Mithu Kumar Sharma, aged about 26 years (male), son of Dilip Sharma, R/o Khushkibag, Chauhan Tola, P.S.- Sadar, District - Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate
For the State : Mr. Sanjay Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 15-01-2021

Heard Mr. Ashok Kumar Jha, learned counsel for the petitioner and Mr. Sanjay Kumar Pandey, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

2. The petitioner is in custody in connection with Sadar PS Case No.564 of 2019 dated 0511.2019, instituted under Sections 302/120B/34 of the Indian Penal Code and 27 of the Arms Act, 1959

3. The petitioner, though not named in the FIR, has been made accused on his confessional statement recorded in another case in which he was caught under the Arms Act and the role assigned is that he was also along with another co-accused, Deepak Kumar Rai, who had actually shot the deceased on the



instructions of the informant.

4. Learned counsel for the petitioner submitted that the petitioner was caught with arms in another case and a so-called confessional statement was recorded by the police in which he has stated that in the present case the informant had asked him to kill the deceased and he along with co-accused, Deepak Kumar Rai had gone and it was Deepak Kumar Rai, who had actually shot the deceased. It was further submitted that co-accused, Deepak Kumar Rai had also made a so-called confessional statement. Learned counsel submitted that later the informant was also made accused and has stated in the so-called confessional statement that it was co-accused Deepak Kumar Rai, who had actually shot the deceased. Learned counsel submitted that the petitioner has no other criminal antecedent except for the other case in which he was caught with arms and in which his so-called confessional statement was recorded, and on the basis of which he has been made accused in the present case. It was submitted that in any view of the matter, the person who had fired is said to be co-accused Deepak Kumar Rai and not the petitioner. Learned counsel submitted that the petitioner is in custody since 18.12.2019.

5. Learned APP, from the case diary, submitted that



the petitioner had confessed to his involvement in the crime. However, he did not controvert that in the confessional statement recorded of the petitioner and the other two co-accused, it is co-accused, Deepak Kumar Rai, who is said to have fired on the deceased.

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 CJM, Purnea, in Sadar PS Case No.564 of 2019, 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)

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