

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.37164 of 2020**

Arising Out of PS. Case No.-103 Year-2020 Thana- PIRBAHOR District- Patna

Akhilesh Kumar @ Chhedi S/o Jagarnath Paswan R/o Shiv Durgalay Lane
Jhopadpatti, P.S. Sultanganj, District- Patna.

... .. Petitioner

Versus

THE STATE OF BIHAR .

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Ankit Katriar, Advocate
For the Informant	:	Mr. Shyamal Prakash, Advocate
For the State	:	Mr. Anant Kumar-1, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-07-2021 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail
in connection with Pirbahore P.S. Case No. 103/2020 registered
for the offences punishable under Section 302, 102(B), 34 of the
Indian Penal Code and Section 27 of the Arms Act.

As per prosecution story, on 17.02.2020 around 8:45
P.M. the informant heard the sound of some noise from outside,
he was informed by the people outside that his father has been
shot by some people in their lane and is lying there, thereafter
the informant reached at the place of occurrence and saw his
father was lying there. He took the help of local people and
brought his father to PMCH where the father of the informant
was declared dead.



Learned counsel for the petitioner submits that the petitioner is not named in the First Information Report, his name has however transpired in the confessional statement of the co-accused Suraj Kumar who has allegedly named this petitioner along with the co-accused and has stated in his confessional statement that this petitioner and co-accused Aman had caught hold of the hand of the deceased and had pushed him to the wall, in his confessional statement he has accepted that he had fired upon the deceased.

Learned counsel submits that save and except the confessional statement of the co-accused there is no other material to connect the petitioner with the present case, the confessional statement has been recorded in police custody, thus it is not admissible and would not be safe to rely upon the same.

Learned counsel further submits that in course of investigation at the instance of the co-accused Suraj Kumar the alleged fire-arm weapon has been recovered. The petitioner is said to be in custody in connection with the present case since 21.02.2021. In the two cases stated in paragraph '3' of the application, the petitioner is on bail, however with the present case police has registered another case under the Arms Act.

On the other hand, learned counsel for the informant



has opposed the prayer for bail of the petitioner. It is his submission that in paragraph '62' of the case diary it has come that at the instance of all the three accused namely, Suraj Kumar, this petitioner and Aman the fire-arm weapon has been recovered. Learned counsel however submits that the prayer for bail of the co-accused Aman has been rejected by learned coordinate Bench of this court in Cr. Misc. No. 36809/2020.

Learned A.P.P. for the State has endorsed the submission of learned counsel for the informant.

Considering the facts and circumstances of the case, the name of this petitioner has transpired in the confessional statement of the co-accused and a close hearing of paragraph '62' of the case diary this court got an impression that in fact police has jointly given name of the three accused on whose instance the fire-arm weapon has been recovered but in the same paragraph it has come that the co-accused Suraj Kumar had shown the fire-arm which was lying under the polythene cover, the specific name of Suraj Kumar in that regard and that the name of the petitioner has come in the confessional statement with an allegation that he had caught hold of the hand, this court, having further noticed that the petitioner is in custody for 1½ years, investigation against him is complete but the trial



is not likely to take place in near future, directs release of the petitioner above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with Pirbahore P.S. Case No. 103/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail



bonds in terms of the above-mentioned order shall not be
delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

