

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 37742 of 2020**

Arising Out of PS. Case No.-313 Year-2019 Thana- CHANPATIA District- West Champaran

Rajnandan Yadav, aged about 26 years, Male Son of Gaurishankar Yadav,
Resident of Santghat, PS - Bettiah Town, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dhannjay Kumar No 2, Advocate

For the State : Mr. Md. Arif, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 23-07-2021

The matter has been heard *via* video conferencing.

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

3. The petitioner apprehends arrest in connection with Chanpatiya PS Case No. 313 of 2019 dated 23.09.2019, instituted under Sections 25(1-B)a, 26 and 35 of the Arms Act, 1959 (hereinafter referred to as the 'Act').

4. The allegation against the petitioner, though not named in the FIR, is that when police on information had caught



co-accused Anu Patel with firearms, he had later confessed before the police that the same was given to him by the petitioner.

5. Learned counsel for the petitioner submitted that neither was he caught at the spot nor there is anything to connect him to the recovered firearm. It was submitted that only because the petitioner is the brother of the Chairman of the District Board, West Champaran, he has been falsely implicated as he is also assisting his sister and was also assisting his brother-in-law who was earlier the Chairman of the District Board, West Champaran. Learned counsel submitted that the said confession before the police is also not admissible as evidence. Learned counsel submitted that at the time of lodging of the FIR, the arrested person has not named the petitioner but only later before the police, he has confessed in which the petitioner is said to be the person who had given the firearms. Learned counsel submitted that no substantial evidence has come before the police during investigation and no offence is made out under the Act from the FIR.

6. Learned APP submitted that first of all the petitioner carries criminal antecedent as he is accused in Shrinagar PS Case No. 67 of 2011 instituted under Sections 147, 148, 323, 324 and 302 of the Indian Penal Code. It was further submitted that at the



time when the accused is caught, the police are yet to begin investigation and only during investigation when a person is interrogated, facts come out, which has happened in the present case and is very natural. It was submitted that as far as the evidentiary value of such confession is concerned, the same has to be gone at the stage of trial where the parties shall adduce evidence in support of such plea. Learned APP submitted that the petitioner being the brother of the Chairman of the District Board is in a powerful position and, thus, there cannot be any reason and further, it cannot be believed that he would be falsely implicated. He submitted that the petitioner could have been falsely implicated in addition to the real culprit, but no other name having been taken by the arrested person and admittedly illegal firearms being recovered, the source of such firearms has to be explained, which has been done by the arrested person. It was submitted that since admittedly illegal firearms have been recovered and the person from whom it has been recovered has stated that it was the petitioner who had supplied the same to him clearly there is enough material against him and supply of illegal arms also is an offence under the Act.



7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court is not inclined to grant pre-arrest bail to the petitioner.

8. Accordingly, the petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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