

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.38936 of 2020**

Arising Out of PS. Case No.-212 Year-2020 Thana- NAWADA District- Nawada

PENTAR PASWAN @ PENTAL PASWAN S/o Chhotelal Paswan @ Chhotan
Resident of Village- Ghostama, P.S.- Silao, Distt- Nalanda.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Sheo Kumar Prasad,Advocate

For the Opposite Party/s : Mr.Suresh Prasad Singh,APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 06-07-2021 Heard learned counsel for the petitioner and Mr.
Suresh Prasad Singh, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Nawada Town P.S. Case No. 212 of 2020 registered for the offences punishable under Sections 395, 397 of the Indian Penal Code and Section 25(1-b)a, 26, 27 of the Arms Act.

As per the prosecution story, 7-8 unknown criminals armed with pistol and other deadly weapons entered in the house of the informant, overpowered the informant and his son on the point of firearm and beaten them which caused severe injuries on head, leg and hand of the informant. They took away the golden chain and the earring from the daughter-in-law of the informant. One of the miscreants was overpowered by the informant and in his confessional statement he disclosed the



name of this petitioner.

Learned counsel submits that in this case, test identification parade was held after a long time and the witness had occasion to identify the accused in the court, therefore, the identification loses its significance. Finding this, the learned Co-ordinate Bench of this Court has granted bail to the co-accused Prem Kumar in Cri. Misc No. 23891 of 2020 and Sanjeev Singh in Cri. Misc. No. 31818 of 2020 vide order dated 21.09.2020 and 04.01.2021 respectively.

It is the submission of learned counsel for the petitioner that the petitioner is similarly situated with the co-accused, he has got two criminal antecedents. In one of the cases the petitioner is on bail and in another case being Nawada Town P.S. case No. 214 of 2020 has been registered on the same day in which his prayer for bail is pending.

On the other hand, learned APP for the State submits that despite the efforts made by him, he has not been made available the case diary. In this connection, he had a telephonic talk with the Superintendent of Police, Nawada as well but despite his repeated request, the I.O. has not visited him with the case diary.

This Court finds from perusal of the records that



earlier case diary was called for and there is a communication to this effect to the Superintendent of Police, Nawada vide letter no. 26 dated 19.02.2020 issued by the Chief Judicial Magistrate, Nawada to the SP, Nawada. Learned Chief Judicial Magistrate had apprised the Superintendent of Police, Nawada about the order of this Court to send the case diary. He had requested the Superintendent of Police, Nawada to send the case diary to this Court in the present case. Despite all these, the case diary has not been sent.

After going through the two orders passed by this Court in the case of co-accused, this Court finds that to maintain infirmity in justice, the petitioner deserves similar treatment. Let the petitioner above named be release 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, Nawada in connection with Nawada Town P.S. Case No. 212 of 2020, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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.

At this stage, this Court is also constrained to take a view that non-compliance of the Court's order has definitely not only delayed the disposal of the case but has also created hindrance in administration of justice.

The Court was, at one stage, thinking to take a view to initiate the contempt proceeding against the Superintendent of Police, Nawada but at this stage this Court thinks it just and proper to give him an opportunity to be compliant towards the



order of the Court. This Court, however deems it just and proper to impose a cost of Rs.2000/- (two thousand only/-) upon the state which would be deposited by the Superintendent of Police, Nawada with the District Legal Services Authority, Nawada and a receipt thereof be sent to this Court for record.

If such a receipt is not made available within four weeks from today, the office shall report to this Court.

If it is found that due to fault on the part of any official the state has to suffer the cost, the same shall be realised from the erring official (s) in accordance with law.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

