

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4643 of 2021**

Arising Out of PS. Case No.-404 Year-2020 Thana- KHAIRA District- Jamui

SUBHAM KUMAR @ SUBHAM KUMAR SUMAN S/o Jay Shankar Prasad @ Shankar Prasad R/o Village- Suryamath Pokhar, behind R. Lal College- P.S.- Kabayiya, District- Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar

For the Opposite Party/s : Mr.A.G

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 25-03-2021 Heard learned counsel for the petitioner and learned A.P.P. for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with Khaira P.S. Case No. 404 of 2020 registered for the offence punishable under Sections 25 (1-b)a, 26, and 35 of the Arms Act.

The prosecution case in short is that on 08.03.2020, police party was on patrolling duty and while checking vehicles, petitioner and two other riders, coming on motorcycle started



fleeing away but the petitioner who was driving the motorcycle was apprehended. Police recovered two country-made loaded pistol and three magazines loaded with cartridges, one Samsung mobile phone with SIM.

It is submitted by learned counsel for the petitioner that petitioner has been falsely implicated in this case and has not committed any offence as alleged in the FIR. No such occurrence as alleged ever took place. No incriminating article has been recovered from his conscious physical possession. It is submitted that the seizure list was prepared on 09.09.2020 at 4.30 A.M. and the F.I.R. was lodged on 09.09.2020 at 7.00 A.M., as such there is no compliance of section 100 Cr.P.C. as also there is no independent witness of search and seizure, only police personnel are witnesses and informant. The petitioner is languishing in custody since 10.09.2020.

Learned APP for the State opposed the bail petition.

Considering the facts aforesaid, the above named petitioner is directed to be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below in connection with Khaira P.S. Case No. 404 of 2020, subject to the following conditions:



(1) One of the bailors will be his own blood relative, preferably, father, mother, brother, sister and/or his wife.

(2) The petitioner shall not indulge himself in any similar offence till conclusion of the trial.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

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