

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.3437 of 2021**

Arising Out of PS. Case No.-19 Year-2020 Thana- KATIHAR MUFFASIL District- Katihar

MD. CHHOTU @ KHALIK S/o Md. Yunus R/o Village- Islampur, P.S.-
Mufassil, Districtk- Katihar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Vinay Ranjan, Advocate
For the Opposite Party/s : Dr. Indihar Kumari, APP

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

6 08-07-2021 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within four
weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Muffasil P.S. Case No. 19 of 2020 registered
for the offences punishable under Sections 302, 379, 427 and 34
of the Indian Penal Code and Section 27 of the Arms Act.

Learned counsel for the petitioner submits that the
present case has been lodged on the basis of the ferdbeyan of the
informant Md. Sohail Akhtar who has alleged that while he was
sitting in his shop he was called by his elder brother Md.



Anwarul Haque saying that he had come to the house of Sammo where the bicycle of his son was lying and the family members of Sammo had surrounded him. He asked the informant to come with some more persons. Informant admits that he had gone with his elder brother and some other persons to Sammo's house (husband of one of the co-accused) where he had seen the alleged occurrence. According to the informant this petitioner has fired on the head of his brother Md. Anwarul Haque. This is said to be the first place of occurrence.

Thereafter the informant alleges that the co-accused Md. Azad and his brother led the mob who entered in the premises of the mill of the informant, attacked on his brother's house and destroyed the furniture etc.

Learned counsel submits that on the same date Mufassil P.S. Case No. 19 of 2020 dated 16.01.2020 was registered for the offences alleged under Sections 302, 379, 427 and 34 of the Indian Penal Code and Section 27 of the Arms Act. Learned counsel refers Annexure-2 and Annexure-3 which are the copies of the First Information Report giving rise to Muffasil P.S. Case No. 21 of 2020 dated 17.01.2020 and Muffasil P.S. Case No. 20 of 2020 dated 17.01.2020. While Muffasil P.S. Case No. 21 of 2020 has been registered on



17.01.2020 on the basis of the ferdbeyan of the co-accused Md. Azad who alleged that while he was in his field with his mother and his mother was putting fertilizers in the field, the brother of the informant fired upon the mother of Md. Azad, she became unconscious and ultimately died. Md. Azad had also suffered injuries in the said occurrence giving rise to another case under Sections 302, 307 and 326/34 of the Indian Penal Code.

Third case has been lodged by the S.I. of Police on his own statement and in this case he has alleged that in course of search of the premises of Md. Anwarul Haque (since deceased), large number of arms and amunitions have been recovered.

The submission is that Md. Anwarul Haque was the aggressor and he was having criminal antecedent, huge number of arms and amunitions have been recovered and nobody has seen the assailant who had fired upon him. According to the statement made in paragraph '3', this petitioner has no criminal antecedent, however, he has remained in jail in connection with this case since 14.06.2020, hence his prayer for bail be allowed.

Dr. Indihar Kumari, learned A.P.P. for the State has opposed the prayer for bail of the petitioner. She has taken this Court through the various paragraphs of the case diary wherein



the name of this petitioner has transpired as the assailant who had fired upon the deceased Md. Anwarul Haque. Learned A.P.P. has further informed this Court that this petitioner has concealed his criminal antecedent in the paragraph '3' of the present application. In the case diary it has come that he has got criminal antecedents of at least four cases.

Having regard to the facts and circumstances of the case wherein this Court has noticed that there are sufficient materials in the case diary to support the prosecution version in the present case against this petitioner and further that the petitioner has got criminal antecedent of four case against him which he has been concealed, this Court is not inclined to enlarge the petitioner on bail. His prayer for bail is thus rejected. Let the trial be expedited.

So far as this application for bail is concerned, this application stands disposed of.

For swearing a false affidavit, let a notice to show-cause be issued against the deponent of this case namely Md. Shahid, aged about 28 years, Male Son of Md. Zabbar, Resident of Village – Islampur, P.S. - Mufassil, District – Katihar as to why appropriate proceeding be not initiated against him for filing false affidavit before this Court.



Let such show-cause notice be filed within four weeks.

List this case with show-cause after four weeks on 9th August, 2021.

(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'.

