

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21039 of 2021

Arising Out of PS. Case No.-58 Year-2020 Thana- BAUSI District- Araria

Shivlal Rathore Son of Late Sahat Lal Rathore Resident of Village - Vinodpur,
P.S.- Bousi, District - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nafisuzzoha, Advocate.

For the Opposite Party/s : Mr. Dilip Kumar No. 1, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 27-06-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Nafisuzzoha, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Bousi P. S. Case No. 58 of 2020 registered for the offences punishable under Sections 399, 400, and 402 of the Indian Penal Code and Sections 25(a), (1-A), (1-B), ab, 26(1) (2), 35 of the Arms Act.

As per the prosecution case, it is alleged that 05.06.2020, the Police on a secret information that some



miscreants are sitting in Vinodpur village at the house of Shiv Lal Rathore (the petitioner) and they are making preparation for *dacoiti*, the Police raided the house of the petitioner from where one co-accused Vijay Rathore was apprehended and from his possession one loaded pistol and three cartridges were recovered. It is further alleged that co-accused Vijay Rathore disclosed the name of this petitioner. On search, from the house of the petitioner two cartridges and one magazine were recovered.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from the conscious possession of this petitioner, moreover, the house from where the alleged recovery has been shown, is a joint family house, not exclusively belongs to this petitioner. It is next submitted that the petitioner is in custody since 30.07.2020 and during the course of investigation, no incriminating material has come, which suggests the complicity of this petitioner in the present case.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner has been found involved in nine other cases and recovery has been



made from his house.

Having considered the submissions made on behalf of the parties and taking into account the fact that only two cartridges and one magazine have been said to be recovered from the house of this petitioner, which is a joint family house not exclusively belongs to this petitioner and moreover, the investigation has already been concluded and charge-sheet has been submitted, though the petitioner is in custody since 30.07.2020. It is needless to say that criminal antecedent of the accused cannot be the sole ground to keep him in custody for indefinite period that too when the investigation has already been concluded and further where there is no allegation of tempering with the evidence or intimidating the witnesses. Having regard to the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate, 1st Class, Araria in connection with Bousi P. S. Case No. 58 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the



trial.

- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) 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 cancelling 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.

(Harish Kumar, J)

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