

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24024 of 2021

Arising Out of PS. Case No.-413 Year-2018 Thana- MUNGER MUFFASIL District- Munger

Md. Rizwan S/O Late Md. Paithan @ Abul Khan @ Abul Paithan R/O
Village/Mohalla- Mirzapur Bardah, P.S.- Mufassil, District- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjiv Kumar Singh, Advocate
For the Opposite Party/s : Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

6 10-02-2022 The applicant/accused in Crime No.413 of 2018 registered with Muffasil Police Station for the offences punishable under Sections 121, 379, 414, 120B read with Section 34 of the Indian Penal Code as well as Sections 25(1-A)/25(1-AA)/25(1-B)A/26/35 of the Arms Act, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public Prosecutor appearing for the State.

It is argued on behalf of the applicant that though



the applicant is having criminal antecedent, he is falsely implicated in those cases and even in the instant case in which nothing was recovered from him. Even according to the prosecution case, the role ascribe to the applicant is that of a middleman. No arms were recovered from the applicant.

The learned Additional Public Prosecutor opposed the application by contending that the applicant is having serious criminal antecedents and he was instrumental in dealing with AK-47 rifle.

I have considered the submissions so advanced and also perused the materials placed before me.

It is reported that investigation of the said crime is over and the applicant is behind bar from 07.12.2018. Prosecution case as reflected from the FIR lodged by the police officer is to the effect that the applicant was in the judicial custody in Crime No.334 of 2018 registered at Muffasil Police Station. His custody was sought in the subject crime and his confessional statement came to be recorded. Subject to admissibility of that confessional statement, according to the prosecution case, the applicant had confessed selling of an AK-47 rifle to one Gulo Yadav, prior to four years. It is case of the prosecution that witness



Narad Yadav had disclosed to the police that his maternal uncle Gulo Yadav expressed desire to purchase an AK-47 rifle. Therefore, they went to the applicant. The applicant took them to the house of one Samsheer Alam. The deal was settled at Rs.450000/-. Samsheer Alam then sold the gun to Gulo Yadav. It was then kept concealed beneath the Machan of Gulo Yadav. Police ultimately recovered that rifle.

The incident as alleged by the prosecution took place four years prior to lodging of the FIR. The role attributed to the applicant is to the effect that he took the purchaser and cause meeting of the purchaser with the seller. The fire-arm was not recovered from the applicant.

Considering the nature of allegation against the applicant as well as the evidence in support thereof, I am of the considered view that he deserves to be granted bail in the light of the fact that he is behind bar from 07.12.2018. Therefore, the order:-

- i. The application is allowed.
- ii. The applicant/accused in Crime No. 413 of 2018 registered with Muffasil Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the



satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case. He should attend the jurisdictional P.S. on every fourth Sunday in between 11:00 AM to 1:00 PM till disposal of the trial. Failure to abide by this condition shall entail the prosecution to apply for cancellation of bail.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this



order only after removal of office objections by the
applicant/accused.

(A. M. Badar, J)

Mkr./-

U		T	
---	--	---	--

