

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42026 of 2021

Arising Out of PS. Case No.-258 Year-2018 Thana- JAMALPUR District- Munger

MD. MUSTAKIM @ MANGAL KHAN S/O LATE MD. ZAINUL R/O
VILLAGE-MIRZAPUR BARDAH (DARIAPUR), P.S-MUFFASIL,
DISTRICT-MUNGER.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Adv.

Mr.Bhim Kumar Yadav, Adv.

For the Opposite Party/s : Mrs.Sharda Kumari

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 22-08-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

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

The petitioner seeks bail in connection with
Muffasil P.S. Case No. 258 of 2018 registered for the offences
punishable under Sections 121, 379, 414, 120(B)/34 of the
Indian Penal Code, Sections 25(1-AA), 25(1-B)A, 26, 35 of the
Arms Act and Section 39 of U.A.P. Act.

As per prosecution case, on receiving information



about sale and purchase of illegal arms, a raid was conducted and one co-accused Md. Imran Alam was apprehended. On search of his bag, a number of illegal arms i.e. AK-47 rifles were recovered for which seizure list was prepared. It is alleged that co-accused Imran Alam disclosed the name of other accused persons who were partner in his illegal deeds.

Learned counsel for the petitioner submits that petitioner is not named in the FIR and during course of investigation his name has been transpired at para 118 of the case diary on the confessional statement of co-accused, as mentioned in the impugned order. Petitioner is in custody since 18.11.2019 and bears criminal antecedent of eleven cases. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that nothing has been recovered either from possession of the petitioner or from his house. There is no material on record to demonstrate the present petitioner with the alleged occurrence except confessional statement of co-accused. He further submits that co-accused Md. Manzar @ Manjee @ Md. Manzar Alam @ Manzar has already been granted bail by the Co-ordinate bench of this Court vide Cr. Misc. No. 23084 of 2021. He further submits that co-accused Md. Firoz @ Fizwa,



Sada Rifat, Md. Rizwan @ Bhutto, Md. Niyazul Rahman, Md. Rizwan @ Md. Rizwan Khan have already been granted bail by different Co-ordinate Benches of this Court vide Cr. Misc. Nos. 55816 of 2019, 27858 of 2019, 60901 of 2019, 59312 of 2019 and 1950 of 2020 respectively and the case of present petitioner stands more or less on similar footing.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

The trial court vide its letter no. 236 dated 30.06.2022 reported that case record has been received in the trial court on 03.01.2022 after commitment and presently, the case is pending for production of accused persons from Beur Jail.

Considering the facts and circumstances of the case, period of custody, petitioner is not named in the FIR, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, having more or less similar allegation several co-accused have been granted bail and also taking into consideration the material available on record, let the petitioner above named be released on bail **after framing of charge** on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like



amount each to the satisfaction of learned Chief Judicial Magistrate, Munger in connection with Jamalpur P.S. Case No. 258 of 2018, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) Petitioner shall not leave the territorial jurisdiction of the court below without appropriate permission of the court concerned.

(v) Petitioner shall furnish mobile number at the time of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case and he shall get his presence marked before the officer-in-charge of the concerned police station on the first Tuesday of every month.

(vi) If the petitioner is found involved in similar



nature of offences in future, the learned trial court shall be at
liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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