

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35088 of 2022

Arising Out of PS. Case No.-194 Year-2020 Thana- GOPALPUR District- West Champaran

Arbind Kumar @ Arbind Kumar Mishra aged about 24 years son of Narad Mishra, resident of village- Panditpur, P.S- Paharpur, Dist- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Abhishek Kumar,Adv

For the Opposite Party/s : Mr.Pranav Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-09-2022 Let the defects, if any, be removed within four weeks from today.

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

Petitioner seeks bail in a case registered in connection with Gopalpur P.S.Case No. 194 of 2020 for the offences punishable under Sections 399, 402,412 of the Indian Penal Code and section 25(1-B) a, 26,35 of the Arms Act.

The prosecution case is based on a written report filed by the informant alleging therein that in course of investigation, in connection with Gopalpur P.S.Case No. 184 of 2020 and Gopalpur P.S.Case No. 189 of 2020, three



persons were apprehended namely, Jahangir Alam, Nitish Kumar and Islam Ansari, who disclosed the name of their associates including the petitioner. On search certain incriminating articles and country made pistol were recovered from possession of apprehended persons.

Learned counsel for the petitioner submits that petitioner was neither apprehended at spot nor any incriminating article has been recovered from his conscious or constructive possession. He further submits that the name of the petitioner has come on the disclosure made by apprehended co-accused persons and save and except the disclosure made by co-accused persons, there is no other material showing the complicity of the petitioner in the present crime. He next submits that in fact on account of his past criminal antecedent his name has been implicated in this case. The petitioner is in custody since 15.03.2022.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits that the complicity of the petitioner cannot be ruled out, his name has been disclosed by co-accused persons, who were apprehended at the spot. The petitioner has found involved



in four other cases.

Regard being had to the submissions and considering the fact that the petitioner was neither apprehended on the spot nor any incriminating article has been recovered from his possession and save and except, confessional statement of co-accused persons, there is no other material, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bettiah, West Champaran in connection with Gopalpur P.S.Case No. 194 of 2020 subject to the condition that one of the bailors will be the close relatives 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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