

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55449 of 2021

Arising Out of PS. Case No.-6 Year-2021 Thana- JAHANABAD District- Jehanabad

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DHANANJAY NUT S/O BACCHU NUT R/o village- Belsar, P.S.- Noor Sarai, Distt.- Nalanda.

... .. Petitioner.

Versus

THE STATE OF BIHAR

... .. Opposite Party.

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Appearance :

For the Petitioner : Mr. Nitya Nand Neeraj, Advocate.
For the State : Dr. Indihar Kumari, A.P.P.

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

3 22-02-2022 The applicant has claimed out of turn hearing on account of his own ailment and on 11.02.2022, the learned A.P.P. was directed to verify the genuineness of this ground so also to seek instructions on merit.

The applicant is an accused in Crime No.06 of 2021 registered with Police Station-Jehanabad (Karauna O.P.) on 03.01.2021 for the offences punishable under Sections 25(1-b)a/26/35 of the Arms Act.

The learned counsel for the applicant argued that the subject offence is registered only on the basis of confessional statement of the applicant and there is no admissible evidence against him.

The learned A.P.P. submits that on the confessional statement of the applicant, a firearm is recovered.



Facts of the instant case as projected from the F.I.R. are intruig. Crime No.745 of 2020 is registered against the applicant for the offence punishable under Section 302 read with 34 of the Indian Penal Code as well as Section 27 of the Arms Act. During investigation of that crime, as seen from the F.I.R. of the instant case, on the basis of confessional statement of the applicant and the co-accused, the firearm used in commission of Crime No.745 of 2020 for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code and 27 of the Arms Act came to be recovered. Such recovery is undoubtedly admissible in evidence as per provisions of Section 27 of the Indian Evidence Act if ultimately the firearm is connected with the offence of murder investigated in Crime No.745 of 2020 and as such relevant peace of evidence in that case. However, surprisingly enough, instead of treating this recovery as a part of evidence in Crime No.745 of 2020, the police has registered separate offence i.e. the subject offence involved in this case. The instant offence is as such only of recovery of firearm on the basis of confessional statement of the accused persons which may not be admissible in evidence in the subject crime being hit by the provisions of Sections 24, 25 and 26 of the Indian Evidence Act.



The investigation of the subject crime is over. Resultantly, I see no reason to refuse bail to the applicant. Therefore, the following orders:

(i). The application is allowed.

(ii). The applicant/accused in Crime No.06 of 2021 registered with Police Station-Jehanabad (Karauna O.P.) on 03.01.2021 for the offences punishable under Sections 25(1-b)a/26/35 of the Arms Act, be released on bail on executing P.R. bond of Rs.10000/-(Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions:

(I). The applicant should not extend any threat, promise or 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 should cooperate the trial in expeditious disposal of the trial against him.

(III). The applicant 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.

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)

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