

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71913 of 2021

Arising Out of PS. Case No.-673 Year-2015 Thana- SASARAM NAGAR District- Rohtas

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Birendra Singh @ Birendra Kharwar @ Mukhiya Son of Late Ramkishun
Singh Resident of Village - Athan, P.S.- Adhaura, Distt.- Kaimur, Bhabhua.
... .. Petitioner/s

Versus

The State of Bihar. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deovind Kumar Singh
For the Opposite Party/s : Mr. Amitesh Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 06-05-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State in virtual court
proceeding.

Let the defects, as pointed out by the office, be
removed within four weeks of start of normal functioning of the
physical court.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 147, 148, 149, 307, 353, 121
of the Indian Penal Code and Section 25(1-b)a, 26, 27, 35 of the
Arms Act and Section 17 of C.L.A. Act.

According to prosecution case, on 18.06.2015 the
informant reached at Bhaukhorwa village alongwith other
raiding party in course of doing raid against moist, then
villagers said that some members of moist party were hidden in
the forest. On this information, they reached there along with
villagers and on light of torch firing was made and thereafter the
co-accused Laxmi Kharwar was arrested by the police from the



place of occurrence. On the search one rifle, two live cartridges, eight live cartridges and 8 mm and 5.56 live cartridges were seized.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case only on the basis of confessional statement of co-accused namely, Laxmi Kharwar. He further submits that nothing has been recovered from the conscious possession of the petitioner. He further submits that except the confessional statement of co-accused namely, Laxmi Kharwar nothing has come against the petitioner. He further submits that the police after investigation submitted the charge sheet against the petitioner. He further submits that similarly situated, co-accused, namely, Ajay Rajbhar @ Ajay Kharwar has been granted bail by a co-ordinate Bench of this Court vide order dated 29.04.2022 passed in Cr. Misc. No. 70210 of 2021. The petitioner is in custody since 03.02.2021.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of



the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Sasaram (Darigaon) P.S. Case No. 673 of 2015, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that 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 cancellation 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.

(Rajesh Kumar Verma, J)

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