

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17688 of 2023

Arising Out of PS. Case No.-249 Year-2021 Thana- BARAULI District- Gopalganj

Aman Kumar @ Aman Ray, Son of Devendra Ray, R/V- Sher, P.S- Sidhwalia,
Dist- Gopalganj

... .. Petitioner.

Versus

The State of Bihar

... .. Opposite Party.

Appearance :

For the Petitioner	:	Mr. Javed Aslam, Advocate.
For the State	:	Mr. Jagdhar Prasad, A.P.P.

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

2 17-05-2023 The applicant/accused in Crime No.249 of 2021 (Trial No.66 of 2022) registered with Police Station-Barauli for the offences punishable under Sections 399 and 402 of the Indian Penal Code, under Sections 25(1-b) a, 26 and 35 of the Arms Act as also under Sections 20, 22, 25 and 29 of the N.D.P.S. Act, by this application is seeking his release on bail during pendency of the trial.

2. The learned counsel for the applicant vehemently argued that the applicant have several criminal antecedents and, therefore, he is falsely implicated in the crime in question, without there being any iota of evidence against him. His name is neither mentioned in the F.I.R. and even in inadmissible confessional statement, no role in the crime in question is attributed to the applicant.



3. The learned Additional Public Prosecutor opposed the application.

4. I have considered the submissions so advanced and also perused the materials placed on record.

5. The subject F.I.R. is lodged on the basis of a report lodged Amrendra Kumar Sah, Police Station Officer of Barauli Police Station. According to the prosecution case, this First Informant had received secret information that few people are making preparation for committing dacoity and that is how, he raided the parked car in which in all six persons were sitting. Those all were apprehended. From their possession, few country made firearms and 250 grams of Charas came to be seized. It is not the case of the prosecution that the applicant was one amongst them.

6. It transpires that, subsequently, confessional statement of one of the arrested persons - Pintu Kumar Pandey was recorded by police and in that confessional statement, Pintu Kumar Pandey has stated that he along with one Vicky Kumar met the applicant who had a business of manufacturing illicit arms. It is not the case of the prosecution that thereafter premises of the applicant were raided and some illicit arms were found. Confessional statement is not admissible in evidence nor



the confession is attributing any overt act on the part of the applicant for which there is some tenagible evidence.

7. The investigation of the subject crime is over and considering the nature of evidence against the applicant, his criminal antecedent pales into insignificance. Rather it gives an indication that just because the applicant is having criminal antecedents, he is falsely implicated in the crime in question. As such, the following orders:

(i). The application is allowed.

(ii). The applicant/accused in Crime No.249 of 2021 (Trial No.66 of 2022) registered with Police Station-Barauli for the offences punishable under Sections 399 and 402 of the Indian Penal Code, under Sections 25(1-b) a, 26 and 35 of the Arms Act as also under Sections 20, 22, 25 and 29 of the N.D.P.S. Act, be released on bail on executing P.R. bond of Rs.10000/-(Rupees Ten Thousand) and 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.

(A. M. Badar, J)

Bhardwaj/-P.S.

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