

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43191 of 2022

Arising Out of PS. Case No.-474 Year-2020 Thana- KHAIRA District- Jamui

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BADAL KORA @ BADAL @ AKHTAR ANSARI Son of Sahadat Ansari
Resident of Village - Lupi, P.S. Bengabaad, District - Giridih (Jharkhand).

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Binodanand Mishra, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 02-02-2023 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 Khaira

P.S. Case No. 474 of 2020 registered for the offences punishable

under Sections 147, 148, 149, 353, 307, 121, 121(A), 120(B) of

the Indian Penal Code, Sections 25(1-b)a, 26, 27, 35 of the

Arms Act and Sections 16, 17, 18, 19, 20, 21, 22 of U.A.P. Act.

As per prosecution case, on information about

naxal activities police team with Cobra team on 07.11.2020 at

about 9:30 AM reached near Gidheshwar Pahar forest area.

About 8-10 naxalites were seen there coming towards raiding

team. Naxali team started firing over raiding team. In self



defence raiding team also opened fire. It is further alleged that naxalites ran away. On search huge amount of ammunition were recovered from the forest area left by said naxalites. Petitioner is one among them.

Learned counsel for the petitioner submits that petitioner is not a member of criminal association and petitioner is also not member of terrorist as such offence under Section 16 of U.A.P. Act is not made out against the petitioner. He further submits that petitioner has never raised fund directly or indirectly for terrorist act. Not a single paisa has been recovered from possession of the petitioner as such offence under Section 17 of U.A.P. Act is also not made out against the petitioner and petitioner never conspired with the member of terrorist as such offence under Section 18 of U.A.P. Act is also not applicable. Offence under Section 19 of U.A.P. Act is also not made out against the petitioner because petitioner never attempted to harbour or conceal any person knowing that such person is terrorist. He further submits that no arm or ammunition has been recovered from conscious possession of the petitioner or his house. Petitioner is quite innocent and has not committed any offence as alleged in the FIR. He further submits that petitioner is neither apprehended on the spot nor any incriminating article



has been recovered from his conscious possession. Except confessional statement of co-accused there is nothing on record to demonstrate the complicity of the present petitioner with the alleged occurrence. Moreover, co-accused Bablu Saw on similar allegation has already been granted bail by the co-ordinate Bench of this Court vide Cr. Misc. No. 9302 of 2022 and on the principle of parity the petitioner deserves the same treatment. Moreover, petitioner is in custody since 22.02.2022. Petitioner bears criminal antecedent of three cases out of which in one case petitioner is on bail. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner on the ground of his criminal antecedent.

Considering the facts and circumstances of the case, period of custody, petitioner is neither apprehended on the spot nor any incriminating article has been recovered from his conscious possession, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides 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 Additional Sessions Judge-III, Jamui in connection with Khaira P.S. Case No. 474 of 2020, 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 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.

(v) Petitioner shall not leave the territorial



jurisdiction of the concerned trial court without appropriate permission of the court concerned.

(vi) However, if petitioner violates any of the conditions enumerated above, the learned trial court shall be at liberty to cancel the bail bond of the petitioner.

(Alok Kumar Pandey, J)

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