

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64814 of 2024

Arising Out of PS. Case No.-25 Year-2019 Thana- PIRPAINTI District- Bhagalpur

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Suman Kunwar, S/o Fagu Kunwar, R/o vill - Amapur/Bakharpur, P.S. -
Bakharpur/Pirpanty, Distt. - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Baijnath Sah, Advocate

For the Opposite Party/s : Mr. Khurshid Anwar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-10-2024 Heard Mr. Baijnath Sah, learned Advocate appearing

on behalf of the petitioner and the learned Additional Public

Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with Session Trial No. 116 of 2021 arising out of (Bakharpur O.P) Pirpanty P.S. Case No. 25 of 2019 registered for the offence punishable under Sections 353, 307 and 34 of the Indian Penal Code and 25(1-b)a, 26, 27 and 35 of the Arms Act.

3. Based upon the written report the prosecution alleges that on 10.02.2019 at about 18:30 hours the informant received an information from STF team, Patna that at the house of Dayanad Tiwary some criminals of the gang of Mohan Thakur, variously armed with weapons and cartridges assembled



to commit crime. On such information, the police party alongwith STF raided the house of Dayanand Tiwary and apprehended four persons including Lal Mohammad, Dayanand Tiwary, Amirlal Tiwary and Rajesh Tiwary. On search various arms and ammunitions were recovered and seizure list was prepared. The apprehended persons disclosed the name of the petitioner and other co-accused persons.

4. Learned Advocate appearing on behalf of the petitioner contended that admittedly the petitioner was not apprehended at the place of occurrence and save and except the disclosure made by the apprehended person, there is no material suggesting the complicity of the petitioner in the present crime. It is also the contention of learned Advocate that only because of a long list of criminal antecedent which runs in thirty in number, the name of the petitioner is being implicated in identical nature of crime without there being any cogent material which speaks volume about the malafide on the part of the police personnels. It is next contended that the present case is of 2019 and the petitioner is named in the FIR, but surprisingly he has been remanded in this case on 01.03.2024. It is lastly contended that co-accused Dayanand Tiwary who was arrested on spot and arms were recovered, he has been granted



bail by the Court below vide order dated 02.07.2019 passed in bail petition no. 806 of 2019.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the thirty criminal antecedent of the petitioner speaks loud about his complicity in identical nature of crime and the petitioner apart from being a habitual offender, a terror for the society and thus his release from the custody would certainly create a law and order problem.

6. Regard being had to the submissions made on behalf of the parties and considering the submissions advanced on behalf of the parties and taking note of the fact that save and except the disclosure made by the apprehended person, there is no material suggesting the complicity of the petitioner in the crime. Mere criminal antecedent of the person cannot be the sole ground to keep him behind the custody for an indefinite period. This Court also finds substance that the case is of 2019 and the petitioner has been remanded in the present case in the year 2024, now the trial is in progress and the petitioner undertakes that he will cooperate in the trial, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the



like amount each to the satisfaction of learned Additional District and Session Judge-V, Bhagalpur in connection with Session Trial No. 116 of 2021 arising out of (Bakharpur O.P) Pirpanty Police Station Case No. 25 of 2019, 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.

(Harish Kumar, J)

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