

(2020) 07 PAT CK 0124

Patna High Court

Case No: Criminal Miscellaneous No. 77897 Of 2019

Sufian Khan @ Sufiyan Khan

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: July 9, 2020**Acts Referred:**

- Indian Penal Code, 1860 - Section 307, 323, 324, 341, 504, 506
- Arms Act, 1959 - Section 25(1b)a, 26(2), 27
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Javed Aslam, Lalan Kumar**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.
2. Heard Mr. Javed Aslam, learned counsel for the petitioner and Mr. Lalan Kumar, learned Additional Public Prosecutor (hereinafter referred to as the "APP"™) for the State.
3. The petitioner apprehends arrest in connection with Kuchaikote PS Case No. 235 of 2019 dated 15.08.2019, instituted under Sections 341, 323, 324, 307, 504, 506 of the Indian Penal Code and 25(1-b)a, 26(2), 27 of the Arms Act.
4. The allegation against the petitioner is that he was party to the conspiracy to kill the informant along with others.
5. Learned counsel for the petitioner submitted that in the entire narration of the informant, though there is motive and also description of the role of

various persons in the attempt to kill the informant, but the only reference with regard to the petitioner is that about two months back he had come to the informant and had told that co-accused Guddu Ansari & Khalilullah Ansari who was in jail at that time, had given contract of Rs. 1,50,000/- for killing the informant. Learned counsel submitted that besides that neither any motive nor any specific role of the petitioner has been described in the entire FIR. Learned counsel submitted that it cannot be believed that if the petitioner was involved in the conspiracy, he would have informed the victim about such conspiracy, that too in advance. Learned counsel further submitted that even if it is true that the petitioner may have informed the informant about a conspiracy to kill him, the same is obviously in good faith, to warn the informant about the danger which he was facing. Learned counsel submitted that the petitioner was not among one of the assailants who had fired as he has not been recognized by the informant, even though the petitioner was fully known to him. It was submitted that the petitioner has no other criminal antecedent.

6. Learned APP did not controvert the fact that in the FIR the only role which has been mentioned with regard to the petitioner is that two months back he had come to the informant and had informed that another co-accused had given contract for killing the informant.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.25,000/-(twenty five thousand)

with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-VII, Gopalganj in Kuchaikote PS Case

No. 235 of 2019, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and subject to further conditions (i)

that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour

of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the

evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail

bonds. The petitioner shall cooperate in the investigation as well as in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforesaid terms.