

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.11779 of 2018

Arising Out of PS.Case No. -38 Year- 2017 Thana -PATNA CITY CHOWK District- PATNA

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Kundan Kumar Jaiswal @ Kundan Kumar @ Chittu, Age about 25 yrs, son of Sri. Bipat Prasad @ Bipat Pd. Choudhary, R/o Chowk Sikarpur, Nala Par, Nayee Gali, P.S. Chowk, District Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nityanand Kumar

For the Opposite Party/s : Mr. Sri Shantanu Kumar

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 28-03-2018 Heard learned counsel for the petitioner and learned

APP for the State.

This is the second round of litigation. Earlier the prayer for bail was rejected by this Court in Cr. Misc. No. 40601 of 2017 vide order dated 02.11.2017.

Petitioner is languishing in judicial custody since 18.02.2017 in connection with Chowk P.S. Case No. 38 of 2017 for offences punishable under Sections 25 (1-b)a/26/35 of the Arms Act and Section 120 (B), 201 of the Indian Penal Code.

The prosecution case, as lodged by the police official, is that while seeing the petitioner who was a dreaded criminal found to be roaming, he was apprehended and from his possession



two country made pistol and 27 live cartridges were recovered. Accordingly, a seizure list was prepared.

It has been submitted by the learned counsel for the petitioner that he is innocent and just because he has a criminal history, he has been made accused in the present case. He submits that no overt act has been committed and the petitioner is languishing in judicial custody since more than one year. He further undertakes to co-operate in the trial, charges having been framed and also agrees not to tamper with the evidence or witnesses.

However, learned APP for the State opposes the prayer for bail stating therein that the petitioner is a habitual offender and as many as 5 cases are pending against him although in one case he has been acquitted.

Considering the facts and circumstances, materials on record and the period of custody, let petitioner, above named, be enlarged on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-II, Patna City in connection with Chowk P.S. Case No. 38 of 2017, subject to the conditions that:



- (1) One of the bailors would be a close relative of the petitioner having sufficient immovable property, who will file an affidavit stating his relationship with the petitioner.
- (2) Petitioner will appear before the learned court below during trial as and when required and failure to appear on two consecutive dates without assigning any reason will entail cancellation of his bail bonds.
- (3) If the petitioner indulges in an offence of similar nature in future, the prosecution will be at liberty to move the learned court below for cancellation of his bail bonds.

(Nilu Agrawal, J)

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