

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 18082 of 2021**

Arising Out of PS. Case No.-341 Year-2020 Thana- GAIGHAT District- Muzaffarpur

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RUPESH KUMAR SON OF KAMESHWAR SINGH RESIDENT OF
VILLAGE JAYA, P.S. GAIGHAT, DISTRICT- MUZZAFFARPUR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr Shashank Shekhar, Advocate

For the Opposite Party/s : Mr Tarkeshwar Nath Thakur, APP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 **25-10-2021** At the very outset, learned counsel for the petitioner submits that he has filed a supplementary affidavit bringing on record the typographical error that has crept into the petition in the prayer portion. It is submitted that due to inadvertence, *Khagaria (Mufassil) Police Station (for brevity, PS) Case No 289 of 2020 to the satisfaction of Special Judge (Excise), Khagaria* has been mentioned in the prayer portion of the main petition. The same should be *Gaighat PS Case No 321 of 2020 to the satisfaction of Sessions Judge -cum- Special Judge, Muzaffarpur.*

In view of the supplementary affidavit, this Court would direct that in the prayer portion of the main petition, instead of *Khagaria (Mufassil) PS Case No 289 of 2020 to the*



satisfaction of Special Judge Judge (Excise), Khagaria, the same be read as Gaighat PS Case No 341 of 2020 to the satisfaction of Sessions Judge -cum- Special Judge, Muzaffarpur.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, *APP*) appearing for the State of Bihar.

The petitioner seeks bail in Gaighat PS Case No 341 of 2020 dated 18.10.2020 instituted for the offence punishable under Sections 35 (a-b) a, 26, 35 of Arms Act and Sections 8, 20, 22 of Narcotic Drugs and Psychotropic Substances Act.

Four persons have started fleeing away on seeing the police party. Two, including the petitioner, and one co-accused Anil Kumar have been apprehended and two managed to flee away. From the petitioner, there is alleged recovery of one loaded country made pistol and one live cartridge.

Learned counsel for the petitioner submits that the petitioner has no criminal antecedent and has been falsely implicated in this case. He has been kept in illegal confinement since 15.10.2020 where after the First Information Report (for brevity, *FIR*) was lodged on 18.10.2020 and petitioner is shown to have been taken in custody on 19.10.2020. He submits that



recovery is not in accordance with law. The allegation, as per the FIR itself, is that 470 grams of *Charas* like substance was recovered from co-accused Anil Kumar with which the petitioner has no concern.

Learned APP has opposed the prayer for bail.

Having considered the rival submissions, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Sessions Judge -cum- Special Judge, Muzaffarpur in connection with Gaighat PS Case No 341 of 2020 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.



Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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