

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7914 of 2021

Arising Out of PS. Case No.-9 Year-2020 Thana- SARAIYA District- Muzaffarpur

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MITHILESH KUMAR SINGH @ MITHILESH SINGH S/o Late Awadhesh Singh @ Late Awadhesh Prasad Singh R/o- Village- Nawada, P.S.- Saraiya (Jaitpur O.P.), District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vishwa Mohan Kumar Sinha (Sr. Advocate)
Mr.Manish Chandra Gandhi
For the Opposite Party/s : Mr.Abhay Kumar Roy (APP)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 03-03-2021 Heard learned counsel for the petitioner and learned Additional Public Prosecutor appearing on behalf of the State.

This application for grant of regular bail arises out of Saraiya P.S. Case No. 09 of 2020 registered for the offences punishable under Sections 272, 273/34 of the Indian Penal Code, Section 30(a) of the Bihar Prohibition and Excise Act, 2018 and Sections 25(1-b)a, 26, 35 of the Arms Act.

The petitioner had earlier approached this Court for grant of regular bail, which was rejected by an order dated 30.06.2020 passed in Cr. Misc. No. 21280 of 2020 with an observation that the petitioner shall be at liberty to renew his prayer for bail after three months, if in the meanwhile charge



was not framed. The petitioner is in custody since 02.01.2020.

Allegedly, from his possession one loaded country made pistol and 5.75 liters of Indian made foreign liquor were recovered when he was intercepted by the police while moving in a Scorpio vehicle with one Navin Kumar.

Learned Senior counsel appearing on behalf of the petitioner has argued that as is evident from the First Information Report that allegedly only a firearm was recovered from the petitioner's possession and from the vehicle small quantity of illicit liquor was recovered. There is no other allegation against him, he contends.

From the statement made in paragraph 3 of the application, it appears that the petitioner is accused in following seven criminal cases, in all of which he is on bail:-

“(i) Saraiya P.S. Case No. 194/2014 u/s 414, 468, 471, 472, 419, 420, 120(B) of the I.P.C. and Section 25(1-b) of the Arms Act. Petitioner is not named. He is on bail.

(ii) Saraiya (Jaitpur O.P.) P.S. Case No. 275/14 u/s 341, 323, 324, 504, 384, 386/34 of the I.P.C. Petitioner is named. He is on bail.

(iii) Saraiya (Jaitpur O.P.) P.S. Case No. 257/16 u/s 353, 332, 504, 506/34 of the I.P.C. and Section 25(1-b), 26, 35 of the Arms Act. Petitioner is named. He is on bail.

(iv) Brahmpura P.S. Case No. 82/2014 u/s 302/34 of the I.P.C. Petitioner is not named. He is on bail.



(v) Kathaiya P.S. Case No. 127/2017 u/s 414 of the I.P.C. Petitioner is not named. He is on bail.

(vi) Muzaffarpur Sadar P.S. Case No. 557/2015 u/s 212,216, 399, 402, 414 of the I.P.C. and Section 25(1-b), 26, 35 of the Arms Act.

(vii) Mithanpura P.S. Case No. 10/2015 u/s 302, 307, 120(B) of the I.P.C. Petitioner is not named. He is on bail.”

During the course of hearing of the case, a question had arisen whether alleged commission of a serious offence by a person on bail may entail cancellation of his bail bonds.

Learned Senior counsel representing the petitioner has submitted that bail bonds may be cancelled on the grounds available under the provisions of Cr.P.C., only when there is misuse of privilege of bail.

Considering the nature of accusation against the petitioner in the present case and the fact that he has remained in custody for more a year, in Court's opinion, a case for grant of regular bail is made out.

This application is allowed.

The question, as to whether, commission of serious offence by a person while on bail amounts to misuse of privilege of bail may be considered in appropriate case.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with



two sureties of the like amount each to the satisfaction of the
learned Special Judge, Excise Act, Muzaffarpur in Saraiya P.S.
Case No. 09 of 2020.

AKASH/-
(Chakradhari Sharan Singh, J)

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