

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10398 of 2022**

Arising Out of PS. Case No.-278 Year-2021 Thana- MOTIHARI MUFASIL District- East
Champaran

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CHHOTU KUMAR Son of Jogilal Prasad Resident of Village - Fhakira Tola
Dhekaha, P.s.- Mothari Mufassil, Distt.- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 11573 of 2022

Arising Out of PS. Case No.-278 Year-2021 Thana- MOTIHARI MUFASIL District- East
Champaran

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CHUMAN PRASAD Son of Late Ramashish Prasad Resident of Village -
Dhekaha Fakeera Tola, P.s.- Muffasil, Distt.- East Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 10398 of 2022)

For the Petitioner/s : Mr.Prateek Tandon

For the Opposite Party/s : Mr.A.G

(In CRIMINAL MISCELLANEOUS No. 11573 of 2022)

For the Petitioner/s : Mr.Krishna Kant Singh

For the Opposite Party/s : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 01-08-2022 As both the cases arise out of the same police station

Case No. 278 of 2021, they have been heard together and

disposed of by a common order.

Heard learned counsel for the petitioners and learned

APP for the State.

Let the defect (s), as pointed out by the office, be



removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioners seek bail in connection with N.D.P.S. Case No. 43/2021 arising out of Muffasil P.S. Case No. 278 of 2021 registered for the alleged offences under Sections 414, 420, 467, 468, 471, 120B of the Indian Penal Code and 25(1-b)a, 26, 35 of the Arms Act and 8, 20(B) (ii)(k) of the N.D.P.S. Act.

As per prosecution case, the petitioner Chhotu Kumar and other co-accused persons were apprehended by the police on receipt of information about the miscreants assembling at a particular place for committing some crime. The name of the petitioner Chuman Prasad came up in the confessional statement of co-accused persons during investigation. From the co-accused persons, arms, ammunition and psychotropic substance were recovered whereas from the petitioner Chhotu Kumar, some pamphlets of Bihar Sahani Population were recovered.

Learned counsel for the petitioner Chhotu Kumar submits that petitioner has been falsely implicated in this case. There is no allegation of petitioner being involved in dealing with drug or psychotropic substance only recovery that has been



made from this petitioner is that of pamphlets. Charge sheet has been submitted in this case and the petitioner is in custody since 02.06.2021. He has a clean antecedent.

Learned counsel for the petitioner Chuman Prasad submits that the name of the petitioner came up in the confessional statement of the co-accused persons with the allegation that he was providing shelter to co-accuse Rahul Sahani and the same allegation is against 12 other co-accused persons as well. Otherwise, there is no evidence on record to connect this petitioner to the alleged occurrence. Learned counsel further submits that petitioner Chuman Prasad is accused in a number of cases and after registration of instant case he has been made accused in two more cases. Charge sheet has been submitted in this case and the petitioner is in custody since 29.09.2021. Similarly placed co-accused person has been granted bail vide order dated 05.07.2022 passed in Cr. Misc. No. 11723 of 2022. Learned counsel for the petitioner Chuman Prasad further submits that a supplementary affidavit has been filed on behalf of the petitioner whereas the cases in which he has been made accused subsequent to institution of the present case has been filed on record.

Learned APP for the State opposes the prayer for bail



of the petitioners submitting a large number of arms, ammunition, psychotropic substance recovered from co-accused persons and these two petitioners also used to help them in commission of different crimes.

Having regard to the facts and submissions made on behalf of the parties, considering the nature of recovery from petitioner Chhotu Kumar and further considering the fact that the name of the petitioner Chuman Prasad has come up in the confessional statement and no recovery has been made from him and co-accused also have been granted bail, the case of the petitioners are similarly placed, further considering the submission of charge sheet and the period of custody of the petitioners, the petitioners above named are directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Court of Sessions Judge cum-Special Judge NDPS Act, East Champaran, Motihari in connection with N.D.P.S. Case No. 43/2021 arising out of Muffasil P.S. Case No. 278 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioners.
- (ii) The petitioners will remain



present on each and every date fixed
by the court below.

(iii) In case of absence on three
consecutive dates or in violation of the
terms of the bail, the bail bond of the
petitioners will be liable to be
cancelled by the court concerned.

(Arun Kumar Jha, J)

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