

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15503 of 2022

Arising Out of PS. Case No.-23 Year-2022 Thana- SHAMBHUGANJ District- Banka

Amit Kumar Son of Dhaniklal Yadav Resident of village - Sajua, P.S.-
Asarganj, District - Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 15590 of 2022

Arising Out of PS. Case No.-23 Year-2022 Thana- SHAMBHUGANJ District- Banka

Ashraful Sheikh @ Asraful Sk Son of Islam Sk @ Noor Islam Sheikh
Resident of Gangadhari, P.S.- Nawda, District- Murshidabad (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 15503 of 2022)

For the Petitioner/s : Mr. Ajay Mukherjee, Advocate

For the State : Mr. Suman Kumari Singh, APP

(In CRIMINAL MISCELLANEOUS No. 15590 of 2022)

For the Petitioner/s : Mr. Asif Kalim, Advocate

For the State : Mr. Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-10-2022

Cr. Misc. No. 15503 of 2022

Heard learned counsel appearing on behalf of the
petitioner, learned APP appearing on behalf of the State and
learned counsel for the informant.

Let the defect(s), if any, be removed within a period
of four weeks from today.



The petitioner seeks bail in connection with Shambhuganj P.S. Case No. 23 of 2022 registered for the offence under Sections 25(1-b)a, 26 and 35 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in custody since 27.01.2022.

The allegation against the petitioner is to have in possession of four country-made pistol, four magazine, 45 live cartridges, alongwith other co-accused persons, while going to Bengal from Banka, Bihar by car bearing Registration no. WB 94 E 2314.

Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery was made from jointly occupied car, where petitioner took a lift for local destination and, as such, it cannot be said that the alleged recovery of fire arms was made from conscious physical possession of the petitioner. It is submitted that petitioner is a man of clean antecedent and, moreover, the entire seizure list also appears doubtful, putting a question over entire seizure list and recovery, for the reason, as seizure list is not supported by independent witnesses rather by Bihar Home Guard personnel. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted,



as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State opposes the prayer of bail.

In view of the facts and circumstances, as mentioned above, as alleged recovery of fire arms not appearing from conscious physical possession of the petitioner, in the background of doubtful seizure list, being not supported by independent witnesses, where petitioner is a man of clean antecedent coupled with the fact that chargesheet has already been submitted, where petitioner is in custody since 27.01.2022, let the petitioner, above named, is directed to be released on bail in connection with Shambhuganj P.S. Case No. 23 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-IV, Banka/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.



(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be Prince Kumar, who is the deponent of the present bail petition.”

Learned counsel for the petitioner is directed to file hard copy of affidavit of Prince Kumar before Registry/Office, during course of the day itself, as same is missing from present bail petition.

Lower Court/concerned Court shall accept the bail bond of the petitioner only after submission of a hard copy of present bail petition alongwith affidavit, showing Prince Kumar as deponent thereof.

Cr. Misc. No. 15590 of 2022

Heard learned counsel appearing on behalf of the petitioner, learned APP appearing on behalf of the State and



learned counsel for the informant.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioner seeks bail in connection with Shambhuganj P.S. Case No. 23 of 2022 registered for the offence under Sections 25(1-b)a, 26 and 35 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in custody since 27.01.2022.

The allegation against the petitioner is to have in possession of four country-made pistol, four magazine, 45 live cartridges, alongwith other co-accused persons, while going to Bengal from Banka, Bihar by car bearing Registration no. WB 94 E 2314.

Learned counsel appearing on behalf of the petitioner submitted that as per seizure list, no recovery of alleged fire arms was made from the conscious physical possession of the petitioner. It is submitted that petitioner is the driver, engaged by the owner of the vehicle, namely, Ramit Pal, who has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 29942 of 2022 dated 29.09.2022. It is submitted that petitioner is a man of clean antecedent and, moreover, the entire seizure list also appears



doubtful, putting a question over entire seizure list and recovery, for the reason, as seizure list is not supported by independent witnesses rather by Bihar Home Guard personnel. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State opposes the prayer of bail.

In view of the facts and circumstances, as mentioned above, as no fire arms were recovered from conscious physical possession of the petitioner, as per seizure list, where petitioner is a man of clean antecedent coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Shambhuganj P.S. Case No. 23 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Banka/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the



State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be Nur Islam Sk @ Noor Islam Sheikh, who is the father of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

U		T	
---	--	---	--

