

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15455 of 2022

Arising Out of PS. Case No.-266 Year-2021 Thana- CHAINPUR District- Kaimur (Bhabua)

Nagendra Sharma, male, aged about 45 years, S/o Late Ram Prasad Sharma,
Resident of Village, P.O. and P.S.- Chainpur, District- Kaimur (Bhabhua)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramanuj Tiwary, Advocate

For the Opposite Party/s : Mr. Tarun Prasad Mandal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 05-09-2022 Heard Mr. Ramanuj Tiwary, learned counsel

 appearing on behalf of the petitioner and Mr. Tarun Prasad

 Mandal, learned A.P.P. for the State.

Petitioner, who is in custody since 11.12.2021, seeks regular bail in connection with Chainpur P.S. Case No. 266 of 2021 dated 10.12.2021 registered for offences punishable under Sections 25 (1-b)a/25 (1-aa)/26/35 of the Arms Act, 1959.

Prosecution story in brief is that on getting secret information, police had raided the shop of the petitioner, Nagendra Sharma and in course of the said raid, certain tools as well as materials which were required in manufacturing of arms were recovered from the place of occurrence. Petitioner had confessed before the police that the materials used in manufacturing and ammunition were provided by one co-



accused Satyendra Yadav. Raid was conducted at the place of co-accused Satyendra Yadav from where arms and ammunition were recovered. A common seizure list was handed over to both the accused persons, who had put their signature on the said seizure list.

Learned counsel appearing on behalf of the petitioner submitted that petitioner has clean antecedent and he has falsely been implicated in this case on the basis of confessional statement recorded by the police. It has been specifically stated by learned counsel that said Satyendra Yadav against whom there are several criminal cases pending had been released by the Court below on the ground that no recovery was made from the conscious possession of the said co-accused Satyendra Yadav. A copy of order dated 31.01.2022 passed by learned Additional Sessions Judge-3rd, Kaimur at Bhabhua has been produced before this Court. Referring to the allegation made in the F.I.R., he had tried to make it clear that F.I.R. is in two parts and subsequent to the raid having been done at the shop of the petitioner certain materials as well as arms and ammunition were recovered from his shop and after recording his confessional statement, a raid was conducted at the shop of the co-accused Satyendra Yadav from where also arms and



ammunition were recovered. The Court below has been pleased to release the said Satyendra Yadav taking into consideration the fact that one seizure list which has been prepared relates to the shop of present petitioner. The petitioner must be also given the said benefit by releasing him on the ground of parity.

Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

This Court has meticulously perused the F.I.R. and finds force in the submission made on behalf of the petitioner that though the investigating team had raided the shop of the petitioner and co-accused. Arms and ammunition were recovered from both the places. It seems the prosecution has deliberately left lacunae by preparing a single seizure list on which recovered items have been mentioned and had taken signature of two co-accused including the present petitioner. Co-accused Satyendra Yadav has been released on bail by the Court below, in which it has been recorded that no recovery has been made from the said co-accused Satyendra yadav.

The F.I.R. reveals that raid were conducted at two places from where materials relating to manufacturing of arms were recovered, however, only one seizure list was prepared. Only one seizure list was prepared. Prosecution has left lacunae



deliberately. The said fact has not been considered by the Court below while granting bail to the co-accused Satyendra Yadav.

This Court deprecates the manner in which the trial Court in a very casual manner without applying his judicial mind has released the co-accused Satyendra Yadav and at the same time has violated the norms which entails disciplinary action against learned Additional Sessions Judge-3rd, Kaimur at Bhabhua if he is not conscious in future and again indulge in such act.

Considering the fact that petitioner has remained in custody since 11.12.2021 and has clean antecedent and trial is also not likely to be concluded in near future, the petitioner, above named, is directed to be released on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Kaimur at Bhabhua in connection with Chainpur P.S. Case No. 266 of 2021 dated 10.12.2021 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be



properly represented on each and every date fixed by the Court.

(iii) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(Purnendu Singh, J)

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