

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16509 of 2022

Arising Out of PS. Case No.-382 Year-2021 Thana- RAJGIR District- Nalanda

PRABHAT KUMAR Son of Ramautar Singh Resident of Village - Sahajpura,
P.s.- Nardiganj and Distt.- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No2, Advocate
For the Opposite Party/s : Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 19-07-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

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

The petitioner seeks bail in connection with Rajgir
P.S. Case No. 382 of 2021 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 02.10.2021.

The allegation against the petitioner is to have in
possession of 400 live cartridges.

Learned counsel appearing on behalf of the petitioner
submitted that the alleged recovery has been made from
motorcycle and the same is alleged to be possessed in the bag of



the petitioner, as such, it cannot be said that the alleged recovery has been made from the conscious physical possession of the petitioner. It has further been submitted that nothing surfaced during course of investigation that the said bag is connected with the petitioner in any manner. It has further been submitted that petitioner is involved in two other cases, in which, he is on bail. It has further been submitted that there is no compliance of mandatory provision of Section 100 of Cr.P.C., while preparing seizure list. While concluding the argument, it has been submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that alleged recovery has been made from the bag, as per FIR.

Considering the facts and circumstances as mentioned above, as alleged recovery of live cartridges is not made from the conscious physical possession of the petitioner, moreover, nothing surfaced during course of investigation to connect the petitioner with the present case coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection



with Rajgir P.S. Case No. 382 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned CJM, Nalanda at Biharsharif, subject to the following conditions:

“(i) That 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) 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 Chandrashekhar Azad, who is the cousin of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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