

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18735 of 2022

Arising Out of PS. Case No.-168 Year-2021 Thana- PIYAR District- Muzaffarpur

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DHIRAJ KUMAR @ DHIRU JHA Son of Mahendra Jha Resident of Village
- Chackmahesi, P.S. - Chackmahesi, District - Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Opposite Party/s : Dr.Mrityunjaya Kr.Gautam

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-08-2022 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 Piar P.S.

Case No.168 of 2021 registered for the offence under Sections
25(1-B)a, 26 and 35 of Arms Act and Sections 20 and 22 of the
Narcotic Drugs and Psychotropic Substances Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 09.10.2021.

The allegation against the petitioner is to have in
possession of contraband as smack like substance, along with
one live cartridge.

Learned counsel appearing on behalf of the petitioner



submitted that alleged motorcycle was jointly occupied by other co-accused persons, as such, it cannot be said that alleged fire arms and smack like substance were recovered from conscious physical possession of the petitioner. It is further submitted that seizure list is not supported by independent witnesses and it appears that it is in violation of 100 (4) of the Cr.P.C. It is further appears that provision of Section 50 of NDPS Act, as regard to search upon the person was also not complied in present case. It is further submitted that Section 37 of NDPS Act is not attracted in the present set of recovery, as recovered contraband is less than commercial quantity. It has further been submitted that petitioner is a man of clean antecedent. 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 seizure list is not supported by the independent witnesses.

Considering the facts and circumstances as mentioned above, as alleged contraband is less than commercial quantity, where the seizure list is disputed, 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 Piar P.S. Case No.168 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 Additional Sessions Judge-II, Muzaffarpur/concerned court, subject to the conditions, as mentioned in Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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