

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21458 of 2022**

Arising Out of PS. Case No.-699 Year-2020 Thana- SONEPUR District- Saran

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Akash Kumar @ Akash Rai Son Of Maheshwar Rai R/O- Village- Manpur,
P.S.- Sonepur, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Dr. Rajesh Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Murli Dhar, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 16-08-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Dr. Rajesh Kumar Singh, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Sonepur P. S. Case No. 699 of 2020 registered for the offences punishable under Sections 399 and 402 of the Indian Penal Code and Sections 25(1-b) a, 26 and 35 of the Arms Act.



As per the prosecution case, it is alleged that the police, on a secret information with regard to assemblage of some miscreants in the house of this petitioner, raided the house. However, on noticing the police party all the miscreants succeeded in fleeing away. It is further alleged that co-accused Rubi Devi, who happens to be mother of the petitioner was apprehended and on search, four live cartridges rapped in a polythene and one country-made pistol were recovered from her possession.

Learned counsel appearing on behalf of the petitioner submitted that the petitioner was neither arrested at the spot nor any incriminating material has been recovered from his person or possession. It is further submitted that the alleged recovery of arms is said to have been made from the courtyard of the house, which is a joint family house where several persons reside. It is next submitted that there is no independent witness to the seizure list, apart from being in violation of Section 100 Cr.P.C. It is lastly submitted that only because of the criminal antecedent, the petitioner has been falsely implicated in this case.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the



petitioner has multiple criminal antecedent in as much as his name is found involved in eight other criminal cases.

Having considered the submissions made on behalf of the parties and taking into account the fact that nothing has been recovered from the person or possession of this petitioner and he is in custody since 22.09.2020 and moreover, the criminal antecedent of a person cannot be sole ground for rejection of bail, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Court of Chief Judicial Magistrate, Saran at Chapra in connection with Sonapur P. S. Case No. 699 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates
without any cogent reason, his bail bonds will
liable to be cancelled.

(Harish Kumar, J)

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