

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23902 of 2022

Arising Out of PS. Case No.-122 Year-2022 Thana- SARAIYA District- Muzaffarpur

Nitesh Kumar, S/o Raj Kishore Kumar, R/o Manikpur, P.S.- Saraiya, District-
Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S. Jamil Akhtar, Advocate

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 03-08-2022 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. S. Jamil Akhtar, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Saraiya P.S. Case No. 122 of 2022 registered
for the offences punishable under Sections 399, 402 of the
Indian Penal Code, Sections 25(1-b) a, 26/35 27 of the Arms Act
and Section 8, 20, 22 of the N.D.P.S. Act.

As per prosecution case, it is alleged that on a secret
information regarding assemblage of miscreants, the police
personnel raided the place of occurrence and apprehended four
accused persons including the petitioner and on search one
loaded country made pistol, three sachets smack weighing 1.60



mg. And a mobile were recovered.

Learned counsel for the petitioner submits that in fact nothing has been recovered from the person or possession of this petitioner, rather the same has been seized from another place, but the police knowing the fact that the petitioner belongs to a reputed family has been falsely implicated him showing the recovery from his possession. It is next submitted that so far the recovery of three sachets of smack like substance is concerned, admittedly the same is much below the smaller quantity and for which maximum punishment has been prescribed for one year. It is also submitted that on being aggrieved by the highhandedness of the police, a petition has also been filed before the Superintendent of Police, Muzaffarpur for fair and impartial investigation of the case. It is lastly submitted that this petitioner is in custody since 24.02.2022 having man of fair antecedent.

On the other hand, learned APP for the State opposes the bail application and submits that recovery has been made from the conscious possession of the petitioner.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner is in custody since 24.02.2022 having fair antecedent and moreover



the investigation of the crime is already completed and charge-sheet has been submitted, apart from the fact that the recovered smack like substance is below the smaller quantity, let the petitioner, named above, 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 Sessions Judge, -cum- Special Judge, Muzaffarpur in connection with Saraiya P.S. Case No. 122 of 2022, subject to the condition that one of the bailors will be the close relatives 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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