

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.25961 of 2022**

Arising Out of PS. Case No.-70 Year-2022 Thana- GAIGHAT District- Muzaffarpur

Md. Rakibul @ Kaisar @ Bhonu S/o Late ASHfaque R/o village- Gopalpur  
Gopal, P.S.- Bochahan, District- Muzaffarpur

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Hari Kishore Thakur, Advocate  
For the Opposite Party/s : Mr.Ram Sumiran Rai, APP

**CORAM: HONOURABLE MR. JUSTICE RAJIV ROY**  
**ORAL ORDER**

2      18-08-2022                      Heard learned counsel for the petitioner and learned  
counsel for the State.

Let the defect(s), if any, as pointed out by the office  
be removed within four weeks.

The petitioner is in judicial custody in connection  
with Gaighat (Benibad O.P.) P.S. Case No. 70 of 2022 for the  
offences under Section 414 and 34 of the Indian Penal Code and  
Section 8/20 (b) (ii) (B) of the Narcotic Drugs and Psychotropic  
Substances Act, 1985.

As per the allegation made in the FIR, the police got a  
secret information that two persons are standing at a tea stall on  
a motorcycle dealing in illegal sale and purchase of ‘charas’.  
On the said information, they moved towards the place of  
occurrence and found two persons on a motorcycle. As they



tried to escape, were apprehended and it is alleged that 910 grams of '*charas*' was recovered/seized from a bag hanging with the motorcycle. Accordingly, the FIR was lodged and the petitioner was taken into custody.

Learned counsel for the petitioner submits that the alleged recovery is below the commercial quantity of 1 K.G.. Further even the police has alleged the same to be '*charas*' like substance clearly showing that they were not sure about the recovery/seizure of the substance. He further submits that he was merely a passerby and motorcycle does not belong to him. Further submission is that he is in jail since 12.02.2022 (as stated in paragraph-9 of the bail application) and the charge-sheet has been submitted by the police without even waiting for the 'FSL' report and in absence of such report it, the police cannot claim that recovered item was '*charas*'. He lastly submits that one of the similar placed co-accused has since been enlarged on bail by this Court vide Cr. Misc. No. 25127 of 2022(Vinod Kumar) on 08.08.2022.

Let the same be kept on record.

Learned APP for the State submits that it is a case of recovery/seizure of 910 grams of '*charas*' and the petitioner also has criminal antecedent.



Considering the fact that the police in the FIR has alleged the same to be 'charas' like substance, the motorcycle does not belong to the petitioner and he is in custody since 12.02.2022 as also that the charge sheet stands submitted without waiting for the 'FSL' report, this Court is inclined to grant him the privilege of bail.

Let the petitioner be released on bail after framing of charge on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of learned Sessions Judge cum Special Judge, Muzaffarpur in connection with Gaighat P.S. Case No. 70 of 2022, subject to the following conditions.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his/her *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police station every fortnight for next six months to mark his presence;

(v) the petitioner shall desist from committing any



criminal offence again failing which the State shall be at liberty  
to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is  
allowed.

**(Rajiv Roy, J)**

Ravi/-

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