

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26297 of 2022

Arising Out of PS. Case No.-105 Year-2021 Thana- MORKAHI District- Khagaria

MD. KHURSHID ALAM @ MD. KHURSHEED ALAM Son of md.
Halimuddin @ Haleemuddin Resident of Village - Mirzapur Bardah, P.s.-
Munger, Mufassil, Distt.- Munger.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajnish Kumar Singh, Advocate

For the Opposite Party/s : Mr.Aditya Narayan Singh.1, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-08-2022 Heard learned counsel for the petitioner and learned APP
for the State.

Let the defect (s), as pointed out by the office, be removed
within a period of four weeks from the date of resumption of
physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection
with Morkahi P.S. Case No. 105 of 2021 registered for the alleged
offences under Sections 25(1-b)AA/26(i)(2)/35 of the Arms Act.

As per prosecution case, the petitioner was apprehended in
Chitragupt Nagar P.S. Case No. 680 of 2021 and at his instance, the
raid was conducted at the identified place and other co-accused
persons fled away from the spot but from the house of the Nand
Kishore Yadav, a semi built country made pistol and some
ammunitions apart from the implements used in manufacturing of



guns were recovered.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case as it appears from the FIR that he was arrested in some other case and on the same day present case was also registered against him. The entire recovery has been made from the house of Nand Kishore Yadav and the petitioner has no connection with him. There is no recovery from the conscious possession of the petitioner who was already in police custody. Even the seizure list does not contain the signature of the petitioner and the prosecution has not followed the statutory provisions under Section 100 of the Cr.P.C. There is no independent witness to search and seizure. Learned counsel further submits that the petitioner is in custody since 04.10.2021 and charge sheet has been submitted against him.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that the petitioner is having criminal antecedent and at his instance, the manufacturing unit of illegal arms was seized and a number of articles used in manufacturing of illegal arms along with arms and ammunitions were recovered and seized.

Having regard to the submission made on behalf of the parties and considering the period of custody of this petitioner and also the submission of charge sheet, the petitioner above named is



directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned S.D.J.M. Khagaria in connection with Khagaria Morkahi P.S. Case No. 105 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the petitioner.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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