

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28214 of 2022

Arising Out of PS. Case No.-36 Year-2022 Thana- MEHANDIGANJ District- Patna

=====

Shafi Alam @ Rinku Son of Nawi Alam @Md. Chand R/O- Mohalla-
Alamganj, Pathan Toli, P.S.- Alamganj, Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Ms. Nuzhat Perween, Advocate

For the Opposite Party/s : Mr. Uday Chand Prasad, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-08-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP 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
Mehandiganj P.S. Case No. 36 of 2022 registered for the offence
under Sections 399 and 402 of the Indian Penal Code and
Sections 25(1-b)a, 26 and 35 of the Arms Act.

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



custody since 19.02.2022.

The allegation against the petitioner is to have in possession of two country made pistols alongwith two live cartridges.

Learned counsel appearing on behalf of the petitioner submitted that it is apparent from the seizure list that recovery was made from open place like palm orchard, behind Maheshpur School and, as such, it cannot be said that alleged fire arms were recovered from the conscious physical possession of the petitioner, who is a man of clean antecedent. It is also submitted that name of the petitioner surfaced during the course of investigation, where nothing surfaced to connect the petitioner, *prima facie*, with the present recovery of fire arm and preparation of dacoity. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovery of fire arm was made from the open place, as per seizure list.

Considering the facts and circumstances as mentioned above, as recovery of fire arms cannot be said from the



conscious physical possession of the petitioner rather same is from the open place coupled with the fact that petitioner is a man of clean antecedent where chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Mehandiganj P.S. Case No. 36 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sub Divisional Judicial Magistrate, Patna City, Patna/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical



ground of the petitioner, duly supported by the documents.

(iii) That one of the bailors shall be Kashmiri Khatoon, who is the mother of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

U		T	
---	--	---	--

