

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29482 of 2022

Arising Out of PS. Case No.-191 Year-2020 Thana- AURAI District- Muzaffarpur

KAUSHAL DAS Son of Late Girdhari Das Resident of Village - Atrar, P.S.-
Aurai, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hari Kishore Thakur, Advocate.

For the Opposite Party/s : Mr. Jai Narain Thakur, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 19-09-2022 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 Mr. Hari Kishore Thakur, 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 Aurai P. S. Case No. 191 of 2020 giving rise to N.D.P.S. Case No. 77 of 2020 registered for the offences punishable under Sections 399 and 402 of the Indian Penal Code, Sections 25 (1-b)a and 26 of the Arms Act and Sections 8, 20, 22, 25 and 29 of the Narcotic Drugs And Psychotropic Substances Act.



As per the prosecution case, it is alleged that the police on a secret information, conducted a raid and co-accused Sunil Kumar Mahto was apprehended by the police and it is also alleged that 520 grms Charas or Opium and one loaded country-made pistol and one live cartridge were recovered from his possession. It is further alleged that the apprehended co-accused Sunil Kumar Mahto disclosed the name of his associates including the petitioner.

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 conscious or constructive possession and save and except the disclosure made by co-accused person, there is no material suggesting the complicity of the petitioner in the present crime. It is also submitted that other accused persons having identical allegation, namely, Bablu Sahani and Sunil Kumar Mahto, who were apprehended at the spot have already been enlarged on bail by learned coordinate Benches of this Hon'ble Court. The copies of which have been annexed as annexure 2 to this application. It is next submitted that prior to the institution of this case, the petitioner was named in only one case, however, after institution of the present case, he has been remanded in



three more cases, which has been mentioned in paragraph 3 to this application. It is last submitted that the petitioner is in custody since 13.06.2021.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner is named in the F.I.R. and ample materials have come during the course of investigation, apart from having multiple criminal antecedent.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the petitioner was neither arrested at the spot nor any incriminating material has been recovered and other co-accused persons, having identical allegation have already been granted bail by this Hon'ble court, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-II, Muzaffarpur in connection with Aurai P. S. Case No. 191 of 2020 giving rise to N.D.P.S. Case No. 77 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.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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(Harish Kumar, J)

