

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35001 of 2022

Arising Out of PS. Case No.-91 Year-2022 Thana- KATRA District- Muzaffarpur

=====

Fekan Sah, Son of Asheshwar Sah, Resident of Village- Brahmpur, P.S.-
Kamtaul, Distt.- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ritwik Thakur, Advocate
		Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s :		Mr. Jagdhar Prasad, APP

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-09-2022 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. Ritwik Thakur, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Katra P.S. Case No. 91 of 2022 registered for the offences punishable under Sections 399, 402 of the Indian Penal Code, Sections 25(1-b)a, 26, 35 of the Arms Act and Sections 20/22 of the N.D.P.S Act.

As per prosecution case, it is alleged that in course of patrolling, the police on a secret information with regard to the assemblage of some miscreants, raided the place of occurrence



and apprehended three miscreants, however, on noticing the police personnel three of them managed to flee away. The apprehended persons disclosed the name of the petitioner and other two associates. It is further alleged that from the possession of the apprehended persons, country made pistols and other incriminating articles have been recovered. It is also alleged that on the disclosure made by the apprehended person, the house of the co-accused Uttam Rai was raided and in course of search, 1250 gram of Ganja was recovered.

Learned counsel appearing on behalf of the petitioner submits that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered. He submits that save and except the disclosure made by the apprehended persons, there is no material suggesting the complicity of the petitioner in the present crime and, moreover, the co-accused persons, having identical allegation, who are also allegedly managed to flee away, have already been allowed the privilege of bail by the learned co-ordinate Bench of this Court in Cr. Misc. No. 31669 of 2022 vide order dated 26.08.2022 and Cr. Misc. No. 32998 of 2022 vide order dated 02.09.2022 respectively, the copies of which have been brought on record by way of filing supplementary affidavit. He next submits that



though during the course of investigation, the house of the petitioner was also searched, but no incriminating material has been recovered and after completion of investigation, charge sheet has been submitted and the petitioner, having fair antecedent, is in custody since 15.03.2022.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner was one of the person, who succeeded in fleeing away from the place of occurrence.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner was neither apprehended at the spot nor any incriminating material has been recovered from his person or possession, apart from other co-accused persons, having identical allegation, have been allowed privilege of bail and the petitioner, having fair antecedent, is in custody since 15.03.2022, let the petitioner, named above, 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 Sessions Judge-cum-Special Judge, N.D.P.S. Act, Muzaffarpur in connection with Katra P.S. Case No. 91 of 2022 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 physically 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)

uday/-

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

