

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33680 of 2022**

Arising Out of PS. Case No.-123 Year-2021 Thana- BALRAMPUR District- Katihar

AKHTAR @ MD. AKHTAR S/o Samsul Resident of Village- Barargaon,
P.S.- Balrampur, District- Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mazher Alam

For the Opposite Party/s : Mr.Md. Matloob Rab

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

2 31-08-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
Balrampur P.S. Case No. 123/2021 registered for the offences
punishable under Sections 399 & 402 of the Indian Penal Code
and Sections 25(1-b)a 26/35 of the Arms Act and Section 04 of
the Explosive Substance Act.

As per prosecution case, on 05.08.2021 the informant
alongwith police personnel on the basis of secret information
reached at the place of occurrence and apprehended four
miscreants and rest succeeded to flee away from there. The
miscreants were preparing to commit dacoity in the area and in



course of search one country made pistol alongwith cartridges were recovered from the possession of apprehended persons.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is not named in the FIR. The petitioner was not apprehended on the spot and the name of petitioner has surfaced in this case only on the basis of confessional statement of co-accused, Sushil Mochi. The petitioner has no concern with the other accused persons as named in the FIR nor anyway concern with the seized incriminating articles. Learned counsel for the petitioner further submits that the petitioner is languishing in custody since 06.04.2022 and bears criminal antecedent of two cases. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Apprehended co-accused, Mustkim @ Md. Mustkim against whom recovery of one loaded Deshi katta and three live cartridges have been made, has been granted bail by this Court vide Cr. Misc. No.72252/2021 and the case of present petitioner stands on better footing.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case,



period of custody, petitioner is not named in the FIR, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and also taking into consideration the material available on record, 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 Chief Judicial Magistrate, Katihar in connection with Balrampur P.S. Case No. 123/2021, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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