

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45001 of 2021

Arising Out of PS. Case No.-230 Year-2020 Thana- RAMGARHWA District- East
Champaran

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Rajan Tiwari @ Rajan Kumar Tiwari S/o Krishna Tiwari @ Krishna Bihari
Tiwari R/o village- Shripur, P.S.- Chhauradano. District- East Champaran,
Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Pal Singh, Sr. Advocate
	:	Mr. Dilip Kumar Tondon, Advocate
For the State	:	Mr. Atul Chandra, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

7 20-06-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel 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
Ramgarhwa P.S. Case No. 230 of 2020 registered for the offence
under Sections 399, 402, 413 and 414 of the Indian Penal Code
and Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections
8 and 20(b)(ii)(B) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 22.08.2020.

The allegation against the petitioner is to make



preparations to commit dacoity and also to assemble for the purpose of committing dacoity. It is also alleged against the petitioner is to have in possession of illegal fire arms and 1 kg contraband (Charas).

Learned counsel appearing on behalf of the petitioner submitted that there is nothing on record which may suggest that petitioner was making any preparations to commit dacoity or assemble for the purpose of committing dacoity alongwith other co-accused persons. It has also been submitted that contraband was found wrapped in plastic bag/cover and shows as a total of 1 kg just to make the allegation serious by showing the commercial quantity, for the reason that if any weight of the plastic is reduced from the total weight, the quantity cannot be said to be commercial quantity. It has further been submitted that the recovery of alleged contraband and the fire arms cannot be said from the conscious physical possession of the petitioner. It has also been submitted that petitioner was involved in three other criminal cases which is mentioned in paragraph no.3 of the bail petition and in all cases, he is on bail, moreover, chargesheet has already been submitted in this case, as such there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State while



opposing the prayer for bail fairly conceded that the recovery is not from the conscious physical possession of the petitioner and if the weight of the wrapper is reduced from the total weight as per the seizure list, then certainly, the weight of the quantity would fall below the commercial quantity.

Considering the facts and circumstances as mentioned above, as the quantity of contraband is appearing commercial including the weight of the plastic bags, as per the seizure list coupled with the fact that chargesheet has already been submitted in this case, let the petitioner, above named, is directed to be released on bail in connection with Ramgarhwa P.S. Case No. 230 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, East Champaran, Motihari, subject to the following conditions:

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



(ii) 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 Krishna Bihari Tiwari @ Krishna Tiwari, who is the father of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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