

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46093 of 2021**

Arising Out of PS. Case No.-90 Year-2019 Thana- CHAKIA District- East Champaran

Awadhesh Sah @ Awadhesh Kumar Gupta @ Awadhesh Kumar, aged about 27 years, (Male), Son of Rambilash Sah @ Rambilash Prasad Resident of Village- Kaswa, Kadamwa, P.S.- Ghorasahan, District- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajesh Roy, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 23-02-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

Petitioner seeks bail in connection with Chakiya P.S.
Case No. 90 of 2019 registered for the offences punishable under Sections 25(1-b)a/26/35 of the Arms Act.

The prosecution case, in short, is that on 29.03.2019 at about 18.45 hours, the S.H.O. of Chakia P.S., received secret information that a dreaded criminal Suman Saurabh is about to come to Motihari. On receipt of the secret information, he along with other police officials apprehended the accused and recovered illegal arms and ammunition.

Learned counsel for the petitioner submits that petitioner has criminal antecedent but, has committed no offence



and he has falsely been implicated in the present case. He further submits that the name of the petitioner has transpired on the basis of the confessional statement of the co-accused namely Suman Saurabh. He further submits that one automatic pistol and 5 live cartridges of 765 bores were recovered from the possession of the co-accused, namely, Suman Saurabh. He further submits that nothing incriminating has been recovered from conscious possession of the petitioner and, so, no case of Arms Act is made out against the petitioner. He further submits that the police after investigation has submitted the charge-sheet against the petitioner and the petitioner is languishing in judicial custody since 09.10.2020.

Learned Additional Public Prosecutor has vehemently opposed the prayer for bail to the petitioner stating that the petitioner carries nine more criminal antecedents other than the present one as is evident from paragraph no.3 of the present bail petition.

Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-13, East Champaran at Motihari in



connection with Chakia P.S. Case No. 90 of 2019, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that 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 cancellation 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.

(Rajesh Kumar Verma, J)

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