

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38532 of 2022

Arising Out of PS. Case No.-122 Year-2022 Thana- SARAIYA District- Muzaffarpur

Kundan Kumar, Son of Laxman Rai, Resident of village - Manikpur, P.S.-
Saraiya, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar @ S.K Anjana, Advocate
For the Opposite Party/s : Mr. Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-10-2022 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. Sanjay Kumar @ S. K. Anjana, learned counsel for the petitioner as well as learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Saraiya P.S. Case No. 122 of 2022, giving rise to N.D.P.C. Case No. 63 of 2022 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 Sections 8, 20, 22 of the N.D.P.S. Act.

As per the prosecution case, it is alleged that on secret information regarding assemblage of miscreant, the police personnel raided the place of occurrence and apprehended four



accused persons, including the petitioner, and on search one loaded country made pistol, 110 mg smack like substance and one mobile were recovered.

Learned counsel appearing on behalf of the petitioner submits that in fact nothing has been recovered from the person or possession of this petitioner, rather the same has been seized from another place, but only on account of the fact that the petitioner was apprehended from the place of occurrence, his name has been implicated in this case, showing the recovery from his possession. It is next submitted that so far the recovery of smack like substance is concerned, admittedly the same is much below the smaller quantity, for which maximum punishment has been prescribed for one year. It is next submitted that other accused person having identical allegation has been allowed the privilege of bail by this Court in Cr. Misc. No. 23902 of 2022 vide order dated 03.08.2022. He lastly submits that the petitioner, having fair antecedent, is in custody since 24.02.2022 and now after completion of investigation, charge-sheet has already been submitted.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner caught red-handed with the country made pistol and



smack like substance.

Regard being had to the submissions made on behalf of the parties and considering the fact that the other co-accused persons, having identical allegation, has granted bail by this Court and so far the petitioner is concerned, he having fair antecedent, is in custody since 24.02.2022, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge - 1st Cum Special Judge, N.D.P.S. Act, Muzaffarpur in connection with Saraiya P.S. Case No. 122 of 2022 giving rise to N.D.P.C. Case No. 63 of 2022 subject to the condition that one of the bailors will be the close relatives 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. 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.

(Harish Kumar, J)

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