

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39938 of 2022

Arising Out of PS. Case No.-140 Year-2019 Thana- MATIHANI District- Begusarai

Vickky Mishra @ Vikki Mishra S/o Lakhan Mishra @ Lakho Mishra R/o
village- Ramdiri (Loka Singh Tola), P.S.- Matihani, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinod Gautam, Advocate

For the Opposite Party/s : Mr. Md. Aslam Ansari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 18-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned APP 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 Matihani
P.S. Case No. 140 of 2019 registered for the offence under
Sections 25(1-b)a, 26 and 35 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 07.01.2021.

The allegation against the petitioner is to have in
possession of two country made pistols, alongwith 6 live
cartridges.

Learned counsel appearing on behalf of the petitioner
submitted that name of the petitioner involved in the present



case only for his criminal antecedents, as he is involved in 12 more criminal cases, where he has already been acquitted in three cases and on bail in five cases, where in most of the cases, name of the petitioner surfaced due to local dispute and differences. It is submitted that no seizure list was prepared for the alleged recovery of fire arms, which clearly suggests that petitioner has been falsely implicated by police personnel. It is submitted that the alleged recovery was made from the house of the petitioner, which is jointly occupied by other family members and, as such, it cannot be said that the alleged recovery of fire arms was made from the conscious physical possession of the petitioner. It is also pointed out that compliance of Section 100(4), as regard to search of premises/house, was not made in the present case. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State opposes the prayer of bail.

In view of the facts and circumstances, as mentioned above, as recovery of alleged fire arms not appears to be made from conscious physical possession of the petitioner in the



background that no seizure list was prepared of this effect, where petitioner is in custody since 07.01.2021 coupled with the fact that chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Matihani P.S. Case No. 140 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Begusarai/concerned Court, subject to the following conditions:

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

(ii) That 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
Sujeet Kumar Mishra, who is the brother of
the petitioner and deponent of the present
bail petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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