

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41085 of 2022

Arising Out of PS. Case No.-488 Year-2021 Thana- PATNA CITY CHOWK District- Patna

Vicky Kumar Son of Vinod Prasad @ Binod Prasad Resident of Village -
Gopalganj Road, Suraj Toli, Manpur, P.S. - Buniyadganj, District - Gaya.

... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India through the Narcotic Drugs and Substances. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shyamal Prakash, Advocate.
For the Opposite Party/s : Dr. Indihar Kumari, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 09-11-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Petitioner seeks regular bail in connection with
Chowk P.S Case No. 488 of 2021 registered for the offences
punishable under Sections 25(1-b)a, 26, 35 of the Arms Act and
Sections 8 (c) , 21(b) of the N.D.P.S Act.

As per the prosecution, the police party were on their
patrolling duty and in the meantime, they heard the sound of
gun shots upon which the police party moved towards the
alleged place and found a person lying on the ground with blood
oozing out and saw two miscreants fleeing away from the
alleged place, thereafter one of them was apprehended by the



police and who disclosed his name as Ramesh Kumar and from his possession two country-made pistols, two empty cartridges, one live cartridge and 42 pudiyas of Narcotic material suspected to be Smack weighing 11.82 gm were recovered and he also in his confessional statement disclosed the name of this petitioner. It is further alleged that both the miscreants opened fire at the injured person and thereafter they snatched his bag.

The main submissions advanced by learned counsel Mr. Shyamal Prakash appearing for the petitioner are that the petitioner was not arrested at the spot and his name surfaced in the statement of co-accused Ramesh Kumar who was arrested at the spot with Fire Arms, Narcotic material, who has been granted bail by Co-ordinate bench of this Court vide order dated 18.10.2022 passed in Cr. Misc. No. 37588 of 2022 and the prosecution is mainly relying upon the statement of co-accused Ramesh Kumar given before the police which has no evidentiary value.

Learned APP Dr. Indihar Kumari appearing for the State has opposed the prayer for bail but accepted that against the petitioner the only evidence upon which the prosecution case is relying is the statement of co-accused Ramesh Kumar.

In view of above submissions and mainly considering



the facts that the petitioner was not arrested at the spot as per the FIR, the co-accused Ramesh Kumar who is stated to have been arrested at the spot with the alleged Fire Arms and Narcotic materials disclosed the involvement of the petitioner in the alleged crime and the said co-accused has been enlarged on bail by the Co-ordinate Bench of this Court passed in above mentioned Cr. Misc. case and against the petitioner the investigation has been completed and the main material upon which the prosecution is relying against the petitioner is the statement of co-accused Ramesh Kumar given before the police, in the opinion of this Court it is a fit case for bail to the petitioner. Accordingly, let the petitioner be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge – XXIV, Patna in connection with Chowk P.S. Case No. 488 of 2021.

(Shailendra Singh, J.)

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