

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40999 of 2022

Arising Out of PS. Case No.-232 Year-2022 Thana- MURLIGANJ District- Madhepura

Prince Prasad @ Prince Kumar @ Prince Kumar Arun Prasad S/O Arun Prasad Permanent R/O Village- Pakilpur Ward No.- 05, P.S.- Murliganj, District- Madhepura, Bihar At Present Residing At Sugat Nagar, Ward No.- 2, Near Ayappa Temple, Tukum Society, Chandrapur, P.S.- Ram Nagar (wrongly Mentioned As Chandrapur In Fir), District- Chandrapur- Maharashtra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. P.N.Shahi, Sr. Advocate
For the Opposite Party/s : Mr. M.K.Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 15-09-2022 Let the defects, if any, be removed within four weeks from today.

Heard Mr. P.N.Shahi, learned senior counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in connection with Murliganj P.S.Case No. 232 of 2022 for the offences punishable under Sections 25(1-B)a, 26/35 of the Arms Act.

It is alleged that in course of patrolling, the police party apprehended the petitioner and on search, an automatic pistol loaded with magazine containing three



cartridges were recovered from a bag carrying by the petitioner.

Learned senior counsel appearing on behalf of the petitioner submits that admittedly, the search and seizure was made near Pakilpar Railway Gumti which is a busy place but surprisingly, there is no independent witness to the alleged recovery. He next submits that from the FIR, it would be evident that an automatic pistol made in USA had been recovered from possession of the petitioner, however, this fact gets falsify from the ballistic report which suggest that it was a country made pistol recovered from the bag. He next submits that in fact nothing has been recovered from person or possession of the petitioner and moreover, the bag does not belong to the petitioner but only on account of some suspicion, he was interrogated and in course of interrogation some altercation had taken place and his name has been implicated in this case. He further submits that the petitioner is pursuing his engineering course from International Institute of Information Technology under Savitribai Phule Pune University and in support of his submission, he has brought on record



examination form as contained in Annexure-2 to the application. He last submits that in fact, the petitioner had come to attend the marriage of his cousin which was scheduled to be held on 27.04.2022, in the meantime, some of the local people, who were making attempt to encroach the land, which belongs to the petitioner and when the same was objected, the interested persons in collusion with the police has falsely implicated the petitioner in this case. Learned senior counsel last submits that the petitioner having fair antecedent is in custody since 17.05.2022 and he is ready to give under taking that he will fully co-operate in the trial till its conclusion.

On the other hand, learned counsel for the State opposed the bail application and submits that petitioner was apprehended by the police and on search an automatic pistol and three cartridges have been recovered.

Regard being had to the submissions made on behalf of the parties and considering the infirmities in the seizure list prepared without complying the provisions of section 100 of the Cr.P.C and the petitioner having been a student of engineering college and fair antecedent, is in



custody since 17.05.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 25,000/- (Twenty five Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st class, Madhepura in connection with Murliganj P.S.Case No. 232 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.

(Harish Kumar, J)

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