

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42015 of 2022

Arising Out of PS. Case No.-443 Year-2022 Thana- NAWADA District- Nawada

SURESH MALAKAR, S/o Late Umesh Malakar, R/o village- Anti, P.S.-
Kadirganj, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Nayan, Advocate

For the Opposite Party/s : Mr.Md. Ataur Rahman,APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 04-11-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Town (Kadirganj) P.S. Case No. 443 of 2022
registered for the alleged offences under Sections 25(1-b)a, 26 and
35 of the Arms Act and under Sections 3 and 4 of the Explosive
Substance Act.

As per prosecution case, police received secret
information about petitioner and other co-accused persons keeping
illegal fire arms in their house. A raid was conducted and co-
accused was apprehended and from his possession a carbine with
magazine were recovered. This co-accused Chhotu Malakar named



the petitioner who was also keeping some arms and further raid was conducted at the house of this petitioner and from his bed, a country made *kaata* and five live cartridges were recovered.

Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case at the disclosure of co-accused Chhotu Malakar who named this petitioner due to family dispute as both of them are co-sharers. The recovery shown from the possession of the petitioner is a planted one as nothing was recovered from the house of the petitioner. There could be no application under Section 3 and 4 of Explosive Substance Act against the petitioner and no explosive material was shown to be recovered from the house of the petitioner or from his possession. Charge sheet has been submitted in this case and the petitioner is in custody since 08.05.2022. The petitioner is having clean antecedent.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that the recovery has been made from the possession of the petitioner.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the clean antecedent of the petitioner along with submission of charge sheet and his period of custody, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/-



(twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Nawada Town (Kadirganj O.P.) P.S. Case No. 443 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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