

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43708 of 2022

Arising Out of PS. Case No.-236 Year-2022 Thana- BIKRAM District- Patna

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KAMLESH KUMAR SHARMA SON OF LATE CHANDRADEO
SHARMA @ LATE CHANDRADEO SINGH R/O VILLAGE- SARWAN
BHADSARA/SARWA BHADSARA, P.S.- BIKRAM, DISTRICT- PATNA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Pushkar Narain Shahi, Sr. Advocate
	:	Mr. Mritunjay Kumar, Advocate
		Ms. Diksha, Advocate
		Mr. Shivam, Advocate
For the Opposite Party/s :		Ms. Madhuri Lata, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 08-09-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 420, 467, 468 and 471 of the Indian Penal Code read with Sections 25(1-b), 26, 30 and 32 of the Arms Act.

The informant alleges that petitioner is in possession of N.P.B. bore rifle which has been issued in the name of his cousin Santosh who is in custody and is alleged to have used the arms in crime and the petitioner despite instruction is not handing over the weapons in the police station.

Learned senior counsel for the petitioner submits that



the petitioner has antecedent of one case and from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the weapon in question is a licensed weapon issued in the name of the cousin brother of the petitioner, namely, Santosh, though it is alleged that the said weapon was used in the crime but then it absolutely does not stand to reason that how a licensed weapon can be used in crime as it would amount to creating evidence against the licensee himself. Learned senior counsel next submits that even presuming what has been alleged in the F.I.R. is true, without admitting, then the allegation against the petitioner is of not handing over the alleged weapon in the police station despite instruction, it is next submitted that it has been specifically pleaded that Rakesh is also a cousin brother of the petitioner who is a Constable and is posted with the police force and on his instruction, the weapon was deposited in the Bikram P.S. on 09.09.2021 and after completion of the *panchayat* election, the said weapon was handed over by the police to the petitioner under receipt on 21.11.2021. It is next submitted that thereafter the petitioner returned the weapon to his brother Rakesh who is a Constable and since then he is the custodian of the said weapon, learned senior counsel thus submits that it is not a case where it is alleged that petitioner is a



criminal and has committed crime with the arms in question and has a valid defence which has been specifically pleaded at paragraphs '9' and '10' of the anticipatory bail application.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioner.

Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Bikram P.S. Case No. 236 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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