

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45513 of 2022

Arising Out of PS. Case No.-168 Year-2022 Thana- MALSALAMI District- Patna

Om Gupta @ Nitish Kumar Son of Vishnu Prasad Gupta Resident of Village -
Bhaishani Tola, P.s.- Malsalami, Distt.- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Krishan Jha, Advocate

For the Opposite Party/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 29-11-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Heard learned counsel for the petitioner and the
learned APP for the State.

Petitioner seeks regular bail in connection with
Malsalami P.S. Case No. 168 of 2022 registered for the offences
punishable under Sections 399, 402 and 413 of the Indian Penal
Code, Sections 25 (1-b)a, 26 and 35 of the Arms Act and
Sections 8, 20(b) (ii) (B) of the N.D.P.S. Act.

As per the prosecution, the informant along with other
police personnel acting upon a secret information raided the
alleged place and apprehended this petitioner along with other
co-accused persons and upon making search from the



possession of this petitioner a country made pistol loaded with three live cartridges, a bag containing 1.175 kg of narcotic material suspected to be *Ganja* and a mobile phone were recovered.

The main submissions advanced by the learned counsel Mr. Raj Krishan Jha appearing for the petitioner are that the instant case was completely manufactured by the police and no recovery of any type of incriminating material in respect of the alleged contraband was made from the possession of this petitioner and the witnesses of the search and seizure list of the alleged fire-arms are not independent persons and petitioner had no concern with other co-accused persons and the provisions of Section 50 of N.D.P.S. Act were not followed by the police while making search and seizure of the alleged contraband.

Learned APP Mr. Ram Naresh Ray appearing for the State has opposed the bail prayer.

Heard both the sides and perused the FIR and the seizure lists attached to the FIR. The instant case relates to the recovery of fire-arms and narcotic material suspected to be *Ganja* and from the possession of the petitioner one country-made pistol loaded with a magazine and 1.175 kg narcotic material suspected to be *Ganja* were recovered and from the



possession of other co-accused persons fire-arms and narcotic materials were also recovered. Considering the said recovery of the fire-arms and contraband and also the fact that the petitioner has criminal antecedent of one case which was lodged under Section 392 of IPC and as per the prosecution the accused persons including the petitioner gathered at the alleged place to commit the offence, in the opinion of this Court the petitioner does not deserve to the privilege of bail. Accordingly, his bail prayer stands rejected.

Petitioner may renew his bail prayer after six months, if any significant progress is not made in his case with regard to the proceeding of his trial.

(Shailendra Singh, J.)

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