

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64133 of 2021**

Arising Out of PS. Case No.-113 Year-2021 Thana- MUSAHARI District- Muzaffarpur

Birendra Sahani @ Virendra Sahani S/o Jageshwar Sahani R/o village- Chhoti
Kothiya, P.S.- Musahari, Distt.- Muzaffarpur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kundan Kumar Ojha

For the Opposite Party/s : Mr.Narendra Kumar Singh

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2. 22-02-2022 Heard learned counsel for the parties.

The petitioner seeks bail in Musahari P.S. Case No. 113 of 2021, registered for the offence under Sections 399, 402/34 of the I.P.C., Sections 20, 22 of the N.D.P.S. Act and Sections 25(1-b)a, 26, 35 of the Arms Act.

As per prosecution case, one country-made pistol, one live cartridge as well as one mis-fired cartridge and 150 gm of *Charas* have been recovered from the possession of the petitioner.

It is submitted on behalf of petitioner that recovered *Charas* is less than commercial quantity and as such, rigors of Section 37 of the N.D.P.S. Act would not be attracted against petitioner. Mandatory provision with regard to search and seizure has not been followed. Petitioner is in custody since 04.07.2021.



However, learned A.P.P. for the State has opposed the bail petition and submitted that in this case, apart from recovery of country-made pistol and cartridge, more than small quantity of *Charas* has been recovered from the possession of the petitioner.

Considering the rival submissions of the parties and the recovery of alleged *Charas*, I am not inclined to grant bail to the petitioner and same is, accordingly rejected.

However, once charge is framed and trial commences, the petitioner shall be released on bail by the learned trial court on the condition that he will cooperate in disposal of trial and appear before the trial court, as and when required.

(Prabhat Kumar Singh, J)

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