

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55421 of 2022

Arising Out of PS. Case No.-646 Year-2022 Thana- FORBESGANJ District- Araria

Manish Kumar @ Manish Darvay, aged about 24 years, (M), S/O Dipak Darvay, Resident Of Village- Khaira Chanda Ward No. 02, Police Station- Narpatganj, District- Araria

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Mukesh Kumar Rana, Adv.

For the Opposite Party : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-12-2022 This matter has been taken up today for consideration through video conferencing.

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

The petitioner seeks bail in connection with Forbesganj P.S. Case No. 646 of 2022 corresponding to Special Case No. 19 of 2022 registered for the offence punishable under Sections- 8, 20(b) (ii) (c) of the N.D.P.S. Act and sections 25 (1-b) A, 26, 35 of the Arms Act.

Learned counsel for the petitioner submits that (30) thirty Kgs of *Ganja* has been recovered from a vehicle in which four co-accused namely Shyam Sunder Kumar Yadav, Mukesh Kumar Mehta, Pintu Kumar and Vivek Kumar @ Bikash



Kumar, Khilanand were travelling. There is alleged recovery of arms and ammunition as also apart from mobile phones from these persons. Co-accused, Shaym Sunder kumar Yadav has stated about the petitioner being an associate and party to some earlier crime arising from Forbesganj P.S. Case No. 458 of 2022, and, on such basis the petitioner's name has occurred in the F.I.R. leading to his arrest in the instant case.

It is submitted by the petitioner's counsel that till date the petitioner has not been remanded in Forbesganj P.S. Case No. 458 of 2022. The basis of petitioner's implication, therefore, is unreliable. He is accused in two other cases as per Para-3 of the petition, in which he is already on bail.

In the instant case, the petitioner is in custody since 23.06.2022. Even as per F.I.R., he was not travelling in the vehicle from which the contraband has been recovered, and, therefore, there is no basis for the petitioner's implication in the instant case. The submission is that since he has neither been recovered from the vehicle in which contraband was recovered, nor there is any recovery of contraband from this person. There is sufficient material to conclude that the petitioner is not guilty of the offence under the N.D.P.S. Act, even if the confessional statement to the extent that he was party to Forbesganj P.S.



Case No. 458 of 2022, is accepted to be correct, though petitioner does not admit to the same.

Learned APP for the State has opposed the prayer for bail referring to quantum of recovery and provisions contained in Section 37 of the N.D.P.S. Act, imposing a bar on grant of bail.

Considering the rival submissions, and, since there is no allegation of recovery of contraband substance from the petitioner, or that he was even travelling in the vehicle from which the recovery has been made, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Araria, in connection with Forbesganj P.S. Case No. 646 of 2022 corresponding to Special Case No. 19 of 2022, subject to the following conditions:-

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any



change in the address of the petitioner.

(ii)That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

Raj kishore/-

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