

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67124 of 2021

Arising Out of PS. Case No.-105 Year-2021 Thana- ARA NAGAR District- Bhojpur

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Md Ismail Son Of Md. Idrish Resident Of Village- Rojitpur, Police Station-
Katihar Nagar, District- Katihar. Petitioner

Versus

The State of Bihar Opposite Party

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Opposite Party/s : Mr. Binod Kumar No.3, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 16-05-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by the Stamp Reporter within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Binod Kumar No. 3, learned APP for the State.

Petitioner in the present case is seeking regular bail in connection with Ara Nagar P.S. Case No. 105 of 2021 registered for the offences punishable under Sections 25(1-b)AA/26/35 of the Arms Act. He is in custody since 03.02.2021. The petitioner has no criminal antecedent.

Learned counsel for the petitioner submits that as per the prosecution story, on secret information that some criminals had assembled in the house of Rakesh Yadav for committing crime, the informant along with other police officials raided the said place where three persons namely Aditya Kumar, Vijay Kumar Gupta and Md. Ismail (this petitioner) were present. On search of the said place, 9 mm automatic pistol with magazine and 4 live cartridges were



recovered from the room of co-accused Aditya Kumar and 3 country-made pistols and 25 live cartridges were also recovered from a bag kept in the room of co-accused Vijay Kumar Gupta.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. It is submitted that the petitioner was only present in the house with co-accused and no recovery has been made from his possession. It is also submitted that co-accused Vijay Kumar Gupta has already been granted bail by a learned Co-ordinate Bench of this Court in Cr. Misc. No. 56151 of 2021. The petitioner has remained in custody in the present case since 03.02.2021 having no criminal antecedents.

Learned APP for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the submission that from the First Information report itself it would appear that the petitioner was only present in the house with co-accused Vijay Kumar Gupta and Aditya Kumar, no recovery has been made from his possession, the recovery of 9 mm pistol with magazine and 4 live cartridges have been made from the possession of co-accused Aditya Kumar and then the said co-accused has admitted before the informant that he had brought 3 country-made pistols and the live cartridges which were found in the bag kept there in the room, this Court having noticed that no incriminating materials is present against the petitioner and the co-accused Vijay Kumar Gupta has already been granted bail by a



learned Co-ordinate Bench of this Court in Cr. Misc. No. 56151 of 2021, hence, this Court directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhojpur at Ara in connection with Ara Nagar P.S. Case No. 105 of 2021, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

