

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58906 of 2022

Arising Out of PS. Case No.-150 Year-2021 Thana- SIWAIPATTI District- Muzaffarpur

Nitesh Kumar @ Nitish Kumar S/o Late Braj Kishore Singh R/V-
Damodarpur Sahu Colony (Pathan Toli), P.S.- Kanti, Distt- Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hari Mohan Tripathi, Advocate.

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 09-11-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within

one month.

Petitioner seeks regular bail in connection with
Siwaipatti P.S Case No. 150 of 2021 registered for the offenses
punishable under Sections 8, 20 and 22 of the N.D.P.S. Act.

As per the prosecution, the informant has alleged
that the police party were on their patrolling duty, meanwhile
two persons riding a motorcycle on seeing the police party tried
to flee but one of them was apprehended, however, the pillion
rider fled away. On making search of the apprehended person
one kilogram of Narcotic Material suspected to be *Charas* was
recovered and he also disclosed the name of his associates
including this petitioner.



The main submissions advanced by learned counsel Mr. Hari Mohan Tripathi appearing for the petitioner are that the petitioner earlier preferred Cr. Misc. No. 20309 of 2022 for the relief of regular bail which was rejected by this bench with a liberty given to the petitioner to renew his prayer before the court concerned after framing of charge and thereafter the petitioner approached the court below after framing of the charge but the same was rejected and now the petitioner has again come before this Court with the same prayer. Further submission is that the petitioner was not arrested at the spot and his name surfaced in the confessional statement of co-accused Mohan Kumar who was arrested at the spot as per the prosecution with the alleged Narcotic Material and the said co-accused also disclosed the names of other co-accused persons in whom two co-accused persons named Rakesh Kumar and Dheeraj Kumar have been granted bail by different benches of this Court vide orders dated 27.09.2022 in Cr. Misc. No 20822 of 2022 and 19.07.2022 in Cr. Misc. No. 27072 of 2022 and the case of this petitioner also stands on similar footing with the said co-accused persons. Further submission is that against the petitioner there is criminal antecedent of two cases in which he is on bail and the charge has been framed upon the petitioner by



the trial court and he has been languishing in jail since 21.01.2022. And during the course of investigation the main evidence upon which the prosecution is relying is the confessional statement of co-accused person made before the police.

Mr. Shailendra Kumar Singh, learned APP appearing for the State has opposed the prayer for bail but accepted that against the petitioner the main evidence upon which the prosecution is relying is the confessional statement of co-accused Mohan Kumar.

In view of above submissions and mainly considering the stage of the petitioner's case which appears to be at the initial stage of trial and similarly situated two co-accused persons detailed above are on bail and in respect of the involvement of petitioner in the alleged smuggling of the Narcotic Material the prosecution is mainly relying upon the statement of co-accused Mohan Kumar who was arrested at the spot with the alleged Narcotic Material suspected to be *Charas* and learned APP has also accepted the basis of the prosecution in making the petitioner an accused in the present case as the statement of the co-accused Mohan Kumar given before police.

In the light of these facts the petitioner deserves to a



lenient approach of this Court, let the petitioner 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 1st Additional Session Judge-cum-Special Judge, Muzaffarpur in connection with Siwaipatti P.S. Case No. 150 of 2021.

(Shailendra Singh, J.)

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