

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9875 of 2023**

Arising Out of PS. Case No.-279 Year-2022 Thana- CHAKIA District- East Champaran

KANHAIYA CHAUDHARY S/O UMASHANKAR CHAUDHARY R/v-
Kudiya, P.S.- Pipra, district- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Rashmi Jha, Advocate
Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Anant Kumar 1, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

3 26-06-2023 Heard learned counsel appearing on behalf of the parties.

The petitioner seeks bail in connection with Chakia P.S. Case No. 279 of 2022 registered for the offence under Sections 20, 22, 24 and 29 of the Narcotic Drugs and Psychotropic Substances Act and Sections 25(1-b)A, 26 and 35 of the Arms Act.

The accused/petitioner is named in the F.I.R. and is in custody since 05.07.2022.

The allegation against the petitioner is to have in possession of about 1 Kg. contraband i.e. *Charas* like substance and also of 2 country made pistols along with 05 live cartridges, along with other co-accused persons.



Learned counsel appearing on behalf of the petitioner submitted that alleged recovery made in furtherance of confessional statement of co-accused, namely, Chhotu Singh, while his confessional statement was recorded in Chakia P.S. Case No. 258 of 2022. It is submitted that in furtherance of said confessional statement the alleged recovery was made from an isolated place, not connected in any manner with petitioner. It is submitted that recovery of firearms and narcotic drug, as alleged cannot be said to be recovered from the physical possession of the petitioner. It is submitted that from seizure list it appears that quantity of contraband is about 1 Kg., which was found wrapped inside newspaper and any deduction out of that wrapper may bring down the quantity, lower to commercial quantity and as such rigorous provisions of Section 37 of the NDPS Act not appears to be applicable in present case. While concluding the argument, it is submitted that petitioner found involved in 04 more criminal cases, where, he is on bail and moreover, investigation of this case has completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, opposes the prayer of bail.



Considering the facts and circumstances as mentioned above, as recovery of firearms and contraband not appears to be made from conscious physical possession of the petitioner, where admittedly, quantity of contraband appears less than commercial quantity coupled with the fact that charge-sheet has already submitted, where, petitioner is in custody since 05.07.2022, let the petitioner, above named, is directed to be released on bail in connection with Chakia P.S. Case No. 279 of 2022, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 5th Additional Sessions Judge, East Champaran, Motihari/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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