

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14831 of 2023

Arising Out of PS. Case No.-234 Year-2021 Thana- HUSSAINGANJ District- Siwan

Kanhaiya Kumar @ Kanhaiya Yadav S/O Naresh Yadav R/O Village-
Sidhwal, P.S- Hussainganj, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Ajay Kumar Pandey, Advocate
For the Opposite Party/s : Mr. Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 5 17-05-2023 1. Heard learned counsel for the petitioner and the learned
APP for the State.
2. Petitioner seeks regular bail in connection with Hussainganj
P.S. Case No. 234 of 2021 dated 21.09.2021 registered for the
offences punishable under Sections 25(1-b)a, 26 and 35 of Arms
Act.
3. The main submissions advanced by learned counsel for the
petitioner are that the petitioner earlier preferred Cr. Misc. No.
29483 of 2022 for the relief of regular bail which was rejected by
this Court and thereafter he has again come before this Court for
the same relief mainly on three grounds; firstly, the recovery of the
fire-arms, knife and ornaments was made from the petitioner's
uncle's house and the same has been wrongly shown as being
made from the possession of this petitioner and in this regard case
diary relating to Siwan Town P.S. Case No. 502 of 2021 has been

called for and paragraph no. 20 of the said case diary may be perused which clearly shows that the alleged place of recovery is the house of uncle of the petitioner namely, Suresh Yadav, though the petitioner is stated to have been found at the said place at the time of recovery, but he was found sleeping with co-accused Manish Kumar in the house of said Suresh Yadav and merely on account of petitioner's presence in the said house, he has been dragged in this case and moreover, the said co-accused Manish Kumar has been granted bail by a co-ordinate bench of this Court vide order passed in Cr. Misc. No. 6323 of 2022 and petitioner's case is completely identical to the said co-accused and further, one more co-accused Sonu Kumar has been granted bail by a co-ordinate bench of this Court vide order passed in Cr. Misc. No. 5446 of 2022 and the second ground is the petitioner's long judicial custody as he has been languishing in jail since 22.09.2021 and against him the investigation has been completed and the last ground is that at the time of hearing of the petitioner's earlier miscellaneous petition, the actual position of the place of recovery was not brought into the knowledge of this Court in proper manner and in actual there is no criminal antecedent of the petitioner, though he is accused in the present case and in the Siwan Town P.S. Case No. 502 of 2021 but both relate to the same sequence of occurrence and he is of very young age.

4. Learned APP for the State opposes the bail prayer of the petitioner.

5. Considering the above submissions and mainly the petitioner's long custody period and also the factum of the place of recovery in respect of which the learned counsel for the petitioner has drawn the attention of this Court to the paragraph no. 20 of the case diary of Siwan Town P.S. Case No. 502 of 2021 which goes to show that the recovery of ornaments and weapons was made from the house of some other person namely, Suresh Yadav and petitioner is stated to be the nephew of Suresh Yadav, in my opinion, in the light of these facts and circumstances as pointed out by learned counsel for the petitioner, in the present time the petitioner is entitled to be released on bail. Accordingly, let the petitioner named above be enlarged on bail, **after framing of charge, if the same has not been framed**, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with **Hussainganj P.S. Case No. 234 of 2021.**

(Shailendra Singh, J)

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