

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15687 of 2023

Arising Out of PS. Case No.-358 Year-2022 Thana- RAMGARH District- Kaimur (Bhabua)

SHASHI GOSHWAMI @ SHASHI PRAKASH GOSHWAMI @ SHASHI GIRI Son of Narendra Goshwami Resident of Village - Odiyadih, P.S.- Ramgarh, Distt.- Kaimur (Bhabua)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chandra Mohan Jha, Adv.

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-07-2023 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the offence under Sections 413, 44 and 34 of the Indian Penal Code and Section 25(1-b)a, 26 and 35 of the Arms Act.

Altogether 5.48 gram of heroin is alleged to have been recovered from the possession the petitioner and another co-accused.

Learned counsel appearing for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that it appears from the F.I.R. itself that out of 5.48 gram of heroin, 1.61 gram is alleged to have been recovered from the possession of the petitioner. He further submits that there is non-compliance of Section 50 of the N.D.P.S.



Act. He also submits that rigors of Section 37 of the NDPS act does not apply in this case as the alleged recovery does not fall within the purview of commercial quantity, hence, there is no bar for this Court to grant the privilege of bail to the petitioner. Moreover, co-accused, Arman Ansari having more or less similar allegation has already been granted bail by a co-ordinate Bench of this Court vide order dated 01.05.2023 passed in Cr. Misc. No. 15188 of 2023. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 16.10.2022.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the petitioner carries two more cases other than the present one but he is on bail in both the cases.

Considering the facts and circumstances of the case, let the, above named, 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 learned 1st Additional Sessions Judge -cum- Special Judge, NDPS, Kaimur at Bhabua in connection with NDPS Case No. 06 of 2023 arising out of Ramgarh P.S. Case No. 358 of 2022 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be



properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

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 step 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.

(Rajesh Kumar Verma, J)

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