

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29169 of 2023

Arising Out of PS. Case No.-297 Year-2021 Thana- SIWAN CITY District- Siwan

SONU MIYA Son of Late Nuruddin Miyan R/V- Chhapiya, PS- Hussainganj,
Dist- Siwan at present R/V- Nawalpur Ps- Siwan Town, Dist- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Dwivedi, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 05-07-2023 Heard Mr. Shailendra Kumar Dwivedi, learned
counsel appearing on behalf of the petitioner and Mr. Shailendra
Kumar, learned APP appearing on behalf of the State.

2. Petitioner seeks bail in connection with Siwan
(Town) P.S. Case No. 297 of 2021 registered under Sections
25(1-b)a, 26 and 35 of the Arms Act.

3. Petitioner had earlier moved before this court for
grant of regular bail by filing Cr. Misc. No. 44643 of 2021
which was rejected by this Court on 01.04.2022 with liberty to
the petitioner to renew his prayer for bail after remaining in
custody for further one year. Now the petitioner has renewed his
prayer for bail by filing the present bail application.

4. The allegation against the petitioner is that one
loaded country made pistol and two live cartridges were



recovered from the possession of the petitioner.

5. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and the offence as alleged in the F.I.R. never took place. There is no independent eye witness to the occurrence. Petitioner is only said to be involved in preparation of commission of crime. Learned counsel specifically submitted that earlier the bail application of the petitioner was rejected considering the criminal antecedent of the petitioner against whom twelve criminal cases are pending in which he has been released on bail. Learned counsel appearing on behalf of the petitioner has relied on the judgment of the Apex Court in the case of **Maulana Mohammad Amir Rashadi V. State of Uttar Pradesh and Another** reported in (2012) 2 SCC 382.

6. Considering the allegation made in the F.I.R. as well as the role of the petitioner as alleged will not amount to commission of any offence. Petitioner admits that arms were recovered from his possession and he is in custody since 09.06.2021. Learned counsel appearing on behalf of the petitioner has relied on the judgment of the Apex Court in the case of **Maulana Mohammad Amir Rashadi V. State of Uttar Pradesh and Another** reported in (2012) 2 SCC 382. Para-10



of the said judgment, *inter alia*, is reproduced hereunder:

“10. It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the court, etc.”

7. Considering the alleged role of the petitioner in commission of the offence as well as the fact that in twelve cases which are pending against the petitioner he is on bail, the trial court is directed to verify as to whether the statement made in Para-3 of the bail application is correct and also verify as to whether the petitioner has been acquitted or has been granted bail and if it is found that in all the cases as mentioned in Para-3 either the petitioner has been acquitted or he is on bail, he is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned C.J.M., Siwan in connection with Siwan (Town) P.S. Case No. 297 of 2021, subject to the following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.



(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(5) The petitioner will make his attendance before the concerned police station under which his house is located every day at 9 AM for one month and thereafter every week at 8 a.m. till conclusion of the trial and on any single default without any valid reason on the part of the petitioner, his bail bonds shall be cancelled and the concerned SHO of the police station shall submit his monthly attendance report to the Superintendent of Police, Siwan.

8. The bail application, accordingly, stands disposed of.

(Purnendu Singh, J)

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