

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29380 of 2023

Arising Out of PS. Case No.-264 Year-2022 Thana- BELDOUR District- Khagaria

1. LAWAN SHARMA SON OF LATE SUBHASH SHARMA RESIDENT OF VILLAGE- GANDHINAGAR ITMADI, PS- BELDAUR , DISTT-KHAGARIA
2. JIYALAL SHARMA SON OF LATE WAKIL SHARMA RESIDENT OF VILLAGE- GANDHINAGAR ITMADI, PS- BELDAUR , DISTT-KHAGARIA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bharat Bhushan, Adv.

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 04-09-2023 Heard learned counsel for the petitioners and learned A.P.P. for the State.

The petitioners seek bail in connection with Beldaur P.S. Case No. 264 of 2022 dated 30.11.2022 arising out of G.R. No. 3474 of 2022 registered for the offence under Sections 307, 353, 504 and 34 of the Indian Penal Code and Section 25(1-b)a, 26, 27 and 35 of the Arms Act.

According to the prosecution, one country made pistol load with 315 bore empty cartridge and 16 live cartridges of 315 bore and one empty cartridges have been recovered from the possession of petitioner No.1 and one



country made pistol loaded with one empty cartridge and 10 live cartridges have also been recovered from the possession of petitioner No.2.

Learned counsel appearing for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. He further submits that it appears from the F.I.R. and the seizure list that one country made pistol load with 315 bore empty cartridge and 16 live cartridges of 315 bore and one empty cartridges have been recovered from the possession of petitioner namely Jiyalal Sharma and one country made pistol loaded with one empty cartridge and 10 live cartridges have also been recovered from the possession of petitioner, Lawan Sharma. He further contends that, in fact, nothing incriminating has been recovered from the conscious possession of the petitioners rather the recovery has been planted with ulterior motive. He further submits that Section 100 of the Cr.P.C. has not been compiled by the prosecution while preparing the seizure list. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioners. The petitioners are rotting in judicial custody since 01.12.2022.



Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that the recovery has been made from the conscious possession of the petitioner and accordingly seizure list has been prepared. He further submits that the petitioner No.1 carries one more case other than the present one but the petitioner No.2 carries five cases other than the present one.

Considering the facts and circumstances of the case, let the, above named, petitioners be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-1st, Khagaria in connection with Beldaur P.S. Case No. 264 of 2022/ G.R. No. 3474 of 2022 with the following conditions:-

(1) Petitioners 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 their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.

(2) If the petitioners tamper 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 petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioners. 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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