

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33471 of 2023

Arising Out of PS. Case No.-263 Year-2022 Thana- MANJHAGARH District- Gopalganj

Vivek Kumar Chaudhary @ Vicki Son Of Mangal Chaudhary Resident Of
Village - Chandpur, P.S.- Siswan, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India through Director, N.D.P.S., Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghav Prasad, Advocate

For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 23-06-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with
Manjhagarh P.S. Case No. 263 of 2022 registered for the offence
under Sections 412, 414 and 34 of the Indian Penal Code,
Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 20,
22 and 23 of the N.D.P.S Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 03.09.2022.

The allegation against the petitioner is to involve in
habitual dealing of stolen articles and also found in possession
of four live cartridges and 230 grams *charas* like substance
alongwith other co-accused persons.



Learned counsel appearing on behalf of the petitioner submitted that the petitioner has been falsely implicated in the present case as no such firearm and contraband like *charas* as alleged was recovered from his possession. It is also submitted that compliance of Section 50 of the N.D.P.S. Act as regard search upon person also not appears to be made in the present case. It is submitted that seizure of four live cartridges without having any firearm appears only to aggravate the allegation. It is also submitted that alleged recovery of contraband is appearing less than commercial quantity that is one kilogram in the present case, therefore implication of Section 37 of the N.D.P.S. Act not appears to be applicable in the present case. While concluding the argument, it is submitted that petitioner found involved in one more case, where he is on bail and moreover, investigation of this case has been 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 for bail.

In view of the facts and circumstances as mentioned above as compliance of Section 50 of the N.D.P.S. Act not appears to be followed in the present case, where recovered



quantity is less than commercial quantity coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 03.09.2022, let above named petitioner is directed to be released on bail in connection with Manjhagarh P.S. Case No. 263 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 Sessions Judge, Gopalganj/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J.)

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