

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40213 of 2023**

Arising Out of PS. Case No.-1 Year-2023 Thana- KUDRA District- Kaimur (Bhabua)

DHARMENDRA KUSHWAHA SON OF SHIVDULAR KUSHWAHA @
SHIVDULAR SINGH RESIDENT OF VILLAGE- GHATAON, PS-
KUDRA, DISTT- KAIMUR AT BHABUA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajani Kant Pandey

For the Opposite Party/s : Mr.Vinod Shanker Modi

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

2 19-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with Kudra P.S. Case No. 01 of 2023 registered for the offences punishable under Sections 414 of the IPC and Section 25(1-b)a, 26 and 35 of the Arms Act.

3. As per prosecution case, petitioner and others were apprehended on spot and from the pocket of the petitioner four mobile phones were recovered. It is further alleged that from the possession of co-accused Upendra Kumar one country made pistol and one mobile phone were recovered and from the possession of co-accused Premchandra Diwakar one live cartridge and one mobile phone were recovered.



4. Learned counsel for the petitioner submits that petitioner is in custody since 09.01.2023 and bears criminal antecedent of four cases in which he is on bail in all cases. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that petitioner is quite innocent and has falsely been implicated in the case. He further submits that co-accused Premchand Diwakar has already been granted bail vide Cr. Misc. No. 25957 of 2023 by a co-ordinate Bench of this court and the case of present petitioner stands on better footing as no arms has been recovered from the possession of the petitioner.

5. The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

6. Considering the facts and circumstances of the case, period of custody, co-accused has already been granted bail by a co-ordinate Bench of this Court, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail, on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the



satisfaction of learned Judicial Magistrate-1st, Mohania, Kaimur at Bhabua in connection with Kudra P.S. Case No. 01 of 2023, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(Alok Kumar Pandey, J)

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