

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38925 of 2023

Arising Out of PS. Case No.-247 Year-2022 Thana- IMAMGANJ District- Gaya

SANE ALI KHAN SON OF LATE JANGALI KHAN RESIDENT OF
VILLAGE - KOTHI, PS- KOTHI, DISTT- GAYA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Ritwik Thakur, Advocate Ms. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 26-07-2023 Heard learned counsel appearing on behalf
of the parties.

2. Considering the submissions as advanced,
learned counsel appearing on behalf of the petitioner is
permitted to make necessary correction in paragraph No.1 of
this bail petition, during course of day.

3. The petitioner seeks bail in connection with
Imamganj P.S. Case No. 247 of 2022 registered for the offence
under Sections 399 and 402 of the Indian Penal Code and
Sections 25(1-b)a, 26 and 35 of the Arms Act.

4. The accused/petitioner is named in the F.I.R.
and is in custody since 22.12.2022.

5. The allegation against the petitioner is to



involved in preparation for committing dacoity, along with other co-accused persons and while committing so, found in possession of 02 loaded pistols and 16 cartridges.

6. Learned counsel appearing on behalf of the petitioner submitted that implication of this petitioner with preparation for committing dacoity is only for the reason that he found in possession of two pistols and 16 cartridges, which is not appearing convincing on its face, as legal ingredients is to established a case, *prima facie*, regarding preparation for committing dacoity, is altogether different. It is also submitted that 04 other co-accused persons were available, in alleged vehicle, from where, the recovery of alleged firearms were made, but as to aggravate the allegation against this petitioner, as he found involved in 08 more criminal cases, the entire recovery of firearms were shown to recovered from his possession only. It is also pointed out by learned counsel that seizure list witnesses are police personnels, not the independent witnesses, which further creates doubt over entire seizure, as alleged. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.



7. Learned APP appearing on behalf of the State, opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above, as implication of this petitioner with present case is only for recovery of firearms coupled with the fact that charge-sheet has already submitted, where, petitioner is in custody since 22.12.2022, let the petitioner, above named, is directed to be released on bail in connection with Imamganj P.S. Case No. 247 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 Judicial Magistrate, 1st Class, Sherghati, Gaya/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C. with further conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That Accused/Petitioner shall cooperate in the trial and shall be physically



present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors of the petitioner shall be deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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