

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40649 of 2023

Arising Out of PS. Case No.-111 Year-2022 Thana- PHULWARISHARIF District- Patna

AKSHAY MAHTO @ AKSHAY KUMAR S/o- SURENDRA MAHTO
Village- Uttari Sangat Kumhar Toli Ps- Phulwarisharif Dist- patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saurav Anand, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 28-06-2023 1. Heard learned counsel for the petitioner and the
learned APP for the State.

2. Petitioner seeks regular bail in connection with
Phulwarisharif P.S. Case No. 111 of 2022 (Spl. Case No. 29/22),
dated 11.02.2022 registered for the offences punishable under
Sections 20, 21(b), 22 and 27 of the NDPS Act and Sections
27(1-b)a, 26, 35 of Arms Act.

3. This is second attempt of the petitioner for the
relief of regular bail after his earlier prayer for the same relief
was rejected by this court vide order dated 29.11.2022 passed in
Cr. Misc. No. 45908 of 2022 preferred by this petitioner.

4. As per allegation, the informant along with other
police personnel acting upon a secret information apprehended
this petitioner and upon making search from the possession of



this petitioner a loaded country-made pistol with five live cartridges, seven cartridges, one magazine with five live cartridges, a cash of Rs. 10,000/- and ten *pudiyas* of Narcotic material suspected to be *Brown Sugar* weighing 2.5 grams in totality were recovered, Further it is alleged that upon making search of the petitioner's house 23 *pudiyas* of Narcotic material suspected to be *Brown Sugar* weighing 5.75 grams in totality and a cash of Rs. 1,58,000/- were also recovered.

5. The main submission advanced by the learned counsel for the petitioner are that Cr. Misc. No. 45908 of 2022 earlier preferred by petitioner for the relief of regular bail was rejected by this court with a liberty to the petitioner to renew his bail prayer after six months from that order, if any significant progress is not made in his trial and in view of the said liberty given by this court the petitioner has come again before this court for the same relief as after the lapse of six months from the petitioner's earlier rejection bail prayer no significant progress in the petitioner's trial particularly with regard to the examination of prosecution witnesses has taken place and prosecution has lingering attitude in producing the prosecution witnesses and petitioner is a student and the seized narcotic contraband which is stated to have been recovered from the



possession of this petitioner is slightly more than small quantity and the petitioner has been languishing in jail since 12.02.2022 and the seized money which is Rs. 1,58,000/- belonged to the petitioner which was gifted to him by his relatives on the occasion of his marriage.

6. Learned APP appearing for the State opposes the bail prayer.

7. Heard both the sides. Though, there is a serious allegation against this petitioner and the present matter relates to the recovery of narcotic materials but considering the prosecution's slowness in producing the prosecution witnesses during trial of the petitioner and as per above submission after the rejection of petitioner's earlier prayer no prosecution witness has been produced and examined in the petitioner's trial despite the lapse of more than five months which shows the lingering attitude of the prosecution and petitioner is stated to be a student and young person and the alleged narcotic material which is stated to have been recovered from the possession of this petitioner is slightly more than the small quality, in the opinion of this court, the petitioner now deserves to a lenient approach of this court. Accordingly, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two



sureties of the like amount each to the satisfaction of the concerned Court in connection with Phulwarisharif P.S. Case No. 111 of 2022 (Special Case No. 29/22).

(Shailendra Singh, J)

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