

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46042 of 2023

Arising Out of PS. Case No.-478 Year-2022 Thana- FATUA District- Patna

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Saurabh Kumar @ Sourabh Kumar S/O Dhanjay Mistry @ Dhananjay Mistry
@ Dhanjay Mistry Resident of Village- Baruna Fatwah, Police Station-
Fatwah @ Fatuha District- Patna

... .. Petitioner/S

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravi Shanker Pankaj, Advocate

For the Opposite Party/s : Mr. Narsingh Tanti, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-08-2023 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

2. The petitioner seeks bail in connection with Fatuha
P.S. Case No. 478 of 2022 corresponding to Special Case No. 1274
of 2022 registered for the offence under Section 30(a) of the Bihar
Prohibition and Excise Act and under Sections 25(1-b)a/26/35 of
the Arms Act and under Sections 399, 402, 414, 420 of the Indian
Penal Code.

3. The accused/petitioner is named in the F.I.R. and is
in custody since 25.05.2023.

4. The allegation against the petitioner is to involve
in preparation for committing dacoity alongwith other co-accused
persons, where two country made pistols and three live cartridges
were recovered from the house of this petitioner, where from the



possession of apprehended co-accused persons 03 litres of country made liquor was also recovered.

5. Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery of illicit liquor not appears to be made from conscious physical possession of this petitioner. It is further submitted that as per seizure list alleged firearms alongwith live cartridges appears to be recovered from the house of this petitioner, which is jointly occupied and as such it can be safely said that same not appears to be recovered from his conscious physical possession. It is also pointed out that compliance of Section 100(4) of Cr.P.C. not appears to be followed in present case. It is also submitted that to established a, *prima facie*, case for preparation for committing dacoity, altogether different legal ingredients are required and same can not be raised only upon recovery of firearms. While concluding the argument, it has been submitted that seizure list also appears doubtful being not supported by independent witnesses, rather by police personnel, where petitioner is a man of clean antecedent.

6. Learned APP opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above, and by taking note of the fact as alleged firearms not appears to be recovered from conscious physical possession of this petitioner, where petitioner is in custody since



25.05.2023, accordingly, above named petitioner is directed to be released on bail in connection with Fatuha P.S. Case No. 478 of 2022 corresponding to Special Case No. 1274 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Judge, Special Court, Excise, Patna City, District-Patna/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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