

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63781 of 2021

Arising Out of PS. Case No.-228 Year-2021 Thana- MOTIPUR District- Muzaffarpur

Om Prakash Kumar @ Bittu Kushwaha@ Om Prakash, Son of Shyam Nandan Prasad, Resident of Village - Panapur, (Panapur O.P.) P.S. Meenapur, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brajesh Prasad Gupta, Adv

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

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 23-01-2023 Heard learned counsel for the petitioner and learned APP for the State.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in connection with N.D.P.S. Case No. 85/2021 (Arising out of Motipur P.S. Case No. 228 of 2021) registered under Sections 399, 400, 402, 120(B) of the Indian Penal Code and Sections 25(1-B)a, 26, 35 of the Arms Act and Section 20/22 of the N.D.P.S Act.

As per the prosecution case, a silver colour *Alto* has been stopped, wherein some persons were seated. The petitioner is said to be seated on driver seat; and from his bodily possession, there is



alleged recovery of a country-made pistol, live cartridges and 100 gms “*charas*”. There is also some recovery from the glove compartment of the vehicle (300 gm “*charas*”).

It is submitted by learned counsel for the petitioner that petitioner is in custody since 07.07.2021. The recovery is of a small quantity within the categorisation contained in N.D.P.S Act. The petitioner has no antecedents under this Act, though he is accused in three other cases, as per details in para 3 of the bail application, in one of which he is on bail. Similarly situated co-accused also apprehended from the vehicle, namely, Anil Kumar Bhagat has been allowed bail in Cr. Misc No. 65607 of 2021.

Learned APP has opposed the prayer for bail. He however cannot dispute the fact that bail has been granted to Anil Kumar Bhagat.

Considering the rival submissions, quantum of recovery, petitioner’s claim based on parity, and period of custody, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner’s counsel. Prayer for bail of the petitioner is allowed.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-Cum-Special Judge, Muzaffarpur in N.D.P.S. Case No. 85/2021 (Arising out of Motipur P.S. Case No. 228 of 2021),



subject to the following conditions:-

- (i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.
- (ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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