

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58382 of 2023

Arising Out of PS. Case No.-793 Year-2022 Thana- PHULWARISHARIF District- Patna

Nishu Khan @ Samdan Khan S/O Taj Hasan Khan Resident Of Gudri Bazar,
Ps. Hajipur, Dist. Vaishali At Present Resident Of Samanpura, Ps.
Shastrinagar, Dist.Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Akhauri Kamal Kishore Sahay, Advocate

For the Opposite Party/s : Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 14-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
15.12.2022 in connection with Special (NDPS) Case No. 28 of
2023 arising out of Phulwarisharif P.S. Case No. 793 of 2022,
F.I.R. dated 08.07.2022 for the offences punishable under
Sections 8(c), 21(b) of the N.D.P.S. Act and Section 414/34 of
the Indian Penal Code along with Sections 25(10b)a, 26, 35 of
the Arms Act.

3. According to prosecution case, total recovery of
11.4gms of **Smack** has been made from the possession of
petitioner and the co-accused persons.

4. Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case and he was not arrested at the spot. He further
submits that nothing incriminating article including the



contraband ***Smack*** has been recovered from the possession of the petitioner and the recovery has been made from the other co-accused persons, namely, ***Tausif @ Badshah and Zaid Anwar***. He further submits that on the basis of disclosure made by the co-accused persons, the petitioner has made accused in the present case and the co-accused persons, namely, ***Tausif @ Badshah and Zaid Anwar*** have been granted bail vide orders dated 07.07.2023 in Cr. Misc. No. 36691 of 2023 and 28.08.2023 in Cr. Misc No. 55866 of 2023 and the charge has been framed on 15.03.2023. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 15.12.2022.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and further submits that on the basis of Paragraph No. 3 of the bail petition, petitioner carries two criminal antecedent other than the present one and he is on bail in both these cases.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, 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 learned Additional Sessions Judge – XXVIIIth, Patna, in connection with Special



(NDPS) Case No. 28 of 2023 arising out of Phulwarisharif P.S.

Case No. 793 of 2022, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Aditi

U		T	
---	--	---	--

