

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56626 of 2022

Arising Out of PS. Case No.-137 Year-2022 Thana- KURSAKANTA District- Araria

Md. Sarfaraz, S/o Azam R/V- Dahuabari Ward No. 14, P.S.- Kursakanta,
Distt- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Viveka Nandsingh, Advocate
For the Opposite Party/s : Dr. Indihar Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-03-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

In the present case, the petitioner seeks bail in connection with Kursakanta (Kuwari) P.S. Case No. 137 of 2022 registered for the alleged offences under Sections 399, 402, 307, 116 and 120(B) of the Indian Penal Code and under Sections 25(1-b)a, 26, 27 and 35 of the Arms Act.

As per prosecution case, police received secret information about three persons travelling in a four-wheeler having criminal antecedent. The police tried to intercept the vehicle, but the persons sitting in the vehicle opened fire and miscreants tried to flee away from the spot with their vehicle, but police intercepted it after chase. This petitioner along with co-accused were apprehended from the vehicle and the petitioner is



stated to be the driver of the said vehicle.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. Nothing incriminating has been recovered from the person or possession of this petitioner. There is no allegation of opening fire against this petitioner and none has sustained any injury. From the facts of the case, no case under Sections 399 and 402 of the Indian Penal Code is made out against the petitioner. Co-accused Md. Abdulla from whom one country made pistol along with five live cartridge were recovered and who was sitting in the vehicle has been granted bail by a Coordinate Bench vide order dated 24.02.2023 passed in Cr. Misc. No. 56165 of 2022. The case of petitioner is at better footing than the co-accused who has been granted bail. Charge sheet has been submitted in this case and the petitioner is in custody since 21.07.2022. The petitioner has got clean antecedent.

Learned A.P.P. for the State opposes the prayer for bail of the petitioner submitting that the petitioner was apprehended with country made fire-arm and cartridge.

Having regard to the aforesaid facts and circumstances and submission made on behalf of the parties and further considering the fact that similarly placed co-accused has been granted bail by a Coordinate Bench and further considering the



clean antecedent of the petitioner along with his period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M-1, Araria in connection with Kursakanta (Kuwari) P.S. Case No. 137 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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