

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63768 of 2023

Arising Out of PS. Case No.-265 Year-2022 Thana- BHANGWANPUR HAT District- Siwan

Shahnawaz Mia @ Shahnawaz Ali @ Md. Shahnawaz, aged about 19 years,
Male, S/O Ramjan Ali R/O Village- Mirhata, P.S- Bhagwanpur Haat, P.O-
Bagwanpur Haat, Distt.- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ayush Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

3 06-12-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner apprehends arrest in connection with
Bhagwanpur Haat P.S. Case No. 265 of 2022 dated 15.10.2022,
instituted under Sections 413/414/34 of the Indian Penal Code
and 25(1-b)a/26/35 of the Arms Act.

3. There is recovery of one loaded pistol, two mobile
phones and two motorcycles.

4. Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this
case. The petitioner has been made accused only on the basis of
confessional statement of co-accused persons, namely, Nur
Alam and Vikky Pandey, who were apprehended at the spot. It is



submitted that one loaded pistol, one Samsung mobile and one motorcycle were recovered from possession of co-accused Nur Alam whereas one mobile phone and motorcycle were recovered from possession of co-accused Vikky Paswan. It is submitted that there is no eye witness to the occurrence. It is further submitted that petitioner has no concern with the alleged recovery and seized items in any manner. The name of petitioner has transpired in the instant case on the basis of confessional statement of co-accused, which has got no evidenciary value. It is submitted that three criminal cases are pending against the petitioner since before.

5. Learned APP has opposed the prayer for bail.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M IX in connection with Bhagwanpur Haat P.S. Case No. 265 of 2022, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973, subject to the further condition: (i) that the petitioner shall co-operate in the



trial and shall be properly represented on each and every date fixed 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) that one of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife, (iii) that the bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse, and (iv) that 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.

7. The application stands allowed.

(Khatim Reza, J)

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