

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58061 of 2022

Arising Out of PS. Case No.-646 Year-2022 Thana- FORBESGANJ District- Araria

AVISHEK NIRALA @ KHILANAND @ AVISHEKH NIRALA Son of
Shyam Sah Resident of Village- Rajgown Ward No.- 06, P.S.- Jadiya, District-
Supaul

... .. Petitioner/s

Versus

THE STATE OF BIHAR

.. .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Singh, Adv.

For the Opposite Party/s : Mr. Nagendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-06-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since 25.06.2022
in connection with Forbesganj P.S. Case No. 646/2022, F.I.R.
dated 24.06.2022, for the offences punishable under Sections 8/20
(b) (ii)© of the NDPS Act & Sections 25(1-b) A/26 and 35 of the
Arms Act.

According to prosecution case, 30 Kgs of Ganja has been
recovered from a vehicle in which four co-accused persons,
namely Shyam Sunder Kumar Yadav, Mukesh Kumar Mehta,
Pintu Kumar and Vivek Kumar @ Bikash Kumar, Khilanand were
travelling. There is also recovery of arms and ammunition apart
from mobile phones from these accused persons.

Learned counsel for the petitioner submits that petitioner



has falsely been implicated in the present case only on the basis of confessional statement of the co-accused, namely, Shyam Sunder Yadav @ Pauwa. He further submits that nothing has been recovered from conscious possession or the house of the petitioner rather the recovery has been made from the vehicle in question and from other co-accused persons. He further submits that the petitioner has no concern at all with the alleged recovery or with the alleged occurrence and similarly situated co-accused, namely, Manish Kumar @ Manish Darvay, who was also not arrested on the spot has been granted bail by a co-ordinate Bench of this Court vide order dated 16.12.2022 passed in Cr. Misc. No. 55421/2022. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 25.06.2022.

Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner on the ground that petitioner carries three criminal antecedent other than the present one.

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 learned Sessions Judge-cum-Special Judge, N.D.P.S.Act, Araria in connection Spl. NDPS Case No.19/2022, Forbesganj



P.S. Case No. 646/2022, subject to the following conditions:-

1. 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.

2. 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.

3. 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)

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