

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64441 of 2022**

Arising Out of PS. Case No.-749 Year-2020 Thana- GOPALGANJ TOWN District-
Gopalganj

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ADITYA TIWARI S/O Ajay Tiwari @ Ajay Kumar Tiwari R/O Village-
Pachrukhiya, P.S- Barauli, District- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bijay Prakash Singh, Adv.
For the Opposite Party/s : Mr. Satya Nand Shukla, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

7 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
31.07.2021 in connection with Trial No.01/2021, arising out of
Gopalganj Town P.S. Case No. 749/2020, F.I.R. dated
29.12.2020, for the offences punishable under Sections 25(1-
b)a, 26 and 35 of the Arms Act & Sections 8, 20(b)(ii)(c) of
NDPS Act.

According to prosecution case, 21.250 kilogram of
ganja, one loaded pistol with cartridges and mobile phone has
been recovered from the possession of co-accused, namely,
Chhote Lal Singh and from possession of other co-accused
persons, namely, Hari Shankar Sah, Vikash Dubey, Dilip Sah



and Amir Kumar, one loaded pistol with live cartridges, mobile phones and three motorcycles have also been recovered.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case due to previous criminal antecedent. He further submits that the petitioner was not arrested on the spot and nothing has been recovered from conscious possession of the petitioner. The name of the petitioner has been transpired during investigation on the basis of confessional statement of co-accused, namely, Chhote Lal Singh. He further submits that except the confessional statement of co-accused, no other cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that contraband is recovered from the possession of co-accused, namely, Chhote Lal Singh and the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 31.07.2021.

Vide order dated 22.03.2023 a report was called for from the Trial Court regarding the stage of the case in Cr. Misc No. 73422/2022, which was arisen from the same F.I.R. Report dated 29.04.2023 of the learned Trial Court reveals that as yet charge has not been framed against the petitioner.



Learned counsel for the petitioner submits that in view of the report of the learned trial court, the trial is not likely to be concluded in near future and the petitioner is in custody since 31.07.2021.

Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is ganja and the petitioner has carried 22 criminal antecedent other than the present one but fairly submits that the petitioner was acquitted in 16 cases and he is on bail in 5 cases and till date he has not been remanded in three cases.

Considering the aforesaid facts and period of custody, let the petitioner, above named, be released on bail, after framing of charge, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge-cum-Special Judge, NDPS Civil Court, Gopalganj in connection with Trial No.01/2021, arising out of Gopalganj Town P.S. Case No. 749/2020, 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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