

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70443 of 2022

Arising Out of PS. Case No.-239 Year-2022 Thana- CHAKIA District- East Champaran

Sushil Kumar @ Kundan Kumar Son of Sri Sudarshan Ray Resident of
Village- Koila Belwa, P.S.- Chakiya, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs.Vaishnavi Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-03-2023 Heard learned counsel for the petitioner and learned
APP for the State.

In the present case, the petitioner seeks bail in connection with Chakiya P.S. Case No. 239 of 2022 registered for the alleged offences under Sections 20, 22, 24, 29 of the NDPS Act and Sections 25(1-B)a, 26 & 35 of the Arms Act.

As per prosecution case, during investigation of some other case, co-accused Subodh Rai was apprehended by the police. The co-accused named the petitioner along with other co-accused Mukund Jee @ Vivek Kumar, who were involved in several cases including dealing of psychotropic substance as well. The raid was conducted at the house of the petitioner on the basis of information received from the co-accused that petitioner has kept some psychotropic substance beneath the



heap of dry cow-dung behind his house. The petitioner fled away from his house prior to raid and recovery of Rs. 14,60,000/-, a country made loaded firearm with live cartridge and 500 gms of Charas were made from the identified place behind the house of the petitioner. When the raid was being conducted at the house of the petitioner, another co-accused Mukund Jee was apprehended with 1 kg. of silver ornaments from the house of the petitioner.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is clear from the FIR that it was co-accused Subodh Rai, who concealed the seized articles at the back side of the house of the petitioner beneath the dry cow-dung. It is also apparent from the FIR that no recovery of any incriminating material has been made from the possession of this petitioner. It is also apparent that the petitioner was not present at his house or near the place from where the recovery has been shown. Learned counsel further submits that, in fact, co-accused Mukund Jee was not apprehended from the house of this petitioner and it has been falsely alleged that price was being negotiated with the petitioner. It is further submitted that the house of the petitioner is a joint family house and is occupied by the petitioner, his two



brothers and his parents. It is also not believable that the psychotropic substance was kept there and which was allegedly kept in an open place by the co-accused. The petitioner is in custody since 13.07.2022 and charge sheet has been submitted.

Learned APP opposes the prayer for bail submitting that the petitioner is accused in one another case as well.

Having regard to the facts and circumstance and submissions made on behalf of the parties and considering the fact that the petitioner was not apprehended from the spot and recovery of no incriminating article has been shown from the petitioner rather the recovery has been shown from the back side of his house and further considering the period of custody of the petitioner and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act -cum- Additional Sessions Judge-5, East Champaran, Motihari/ in connection with N.D.P.S. Case No. 46 of 2022, arising out of Chakiya P.S. Case No. 239 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 bonds of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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