

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74231 of 2023

Arising Out of PS. Case No.-293 Year-2023 Thana- KOILWAR District- Bhojpur

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Rajanish Kumar @ Prakash @ Bhuar Son Of Umashankar Rai Resident Of
Village - Manachak, PS- Koilwar, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sarveshwar Tiwary, Advocate

For the Opposite Party/s : Mr.Rajendra Nath Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 29-11-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Koilwar P.S. Case No. 293 of 2023, registered on 22.05.2023 for the alleged offences under Sections 399, 402, 414 of the Indian Penal Code and Sections 25(1-b)a/26/35 of the Arms Act.

3. As per prosecution case, police received secret information about gathering of some criminals at identified place with intention to commit some crime. A raid was conducted and the petitioner and other co-accused persons were apprehended. From the pocket of this petitioner recovery of a live cartridge of .315 bore was made. Recovery of firearm with



ammunition was made from other co-accused persons.

4. Learned counsel for the petitioner submits that the petitioner is innocent has been falsely implicated in this case. The true fact is that the petitioner was arrested from his house while he was sleeping in the midnight of 20.05.2023 and after two days this false case has been lodged. Nothing incriminating has been recovered from the conscious possession of the petitioner. There is non-compliance of provision of Section 100 Cr.P.C. while making search and seizure and no independent witness has been cited. Moreover, recovery from this petitioner is only a live cartridge without any firearm. The petitioner is in custody since 23.05.2023 and charge sheet has been submitted.

5. Learned APP vehemently opposes the submission made on behalf of the petitioner. Learned APP submits that the petitioner is a habitual offender and is accused in 4 cases of serious nature.

6. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties and considering the fact that recovery shown from the possession of the petitioner is only a live cartridge 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 Chief Judicial Magistrate, Bhojpur at Ara/concerned court in connection with Koilwar P.S. Case No. 293 of 2023, 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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