

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11483 of 2024**

Arising Out of PS. Case No.-826 Year-2023 Thana- SITAMARHI District-
Sitamarhi

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MD. KHURSHID ALAM @ KHURSHAID ALAM S/O LATE MD. MUSTAQUE
AHMED ANSARI RESIDENT OF VILLAGE- MURLIACHAK, WARD NO. 19,
POLICE STATION- SITAMARHI, DISTRICT- SITAMARHI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Adv.

For the Opposite Party/s : Mr. Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

2 26-02-2024 Heard learned counsel for the petitioner and

learned A.P.P. for the State.

2. The petitioner seeks bail in connection with

Sitamarhi P.S. Case No. 826 of 2023 dated 02.11.2023

registered for the offence under Sections 399, 402, 414 of

the Indian Penal Code and Section 25(1-b)a, 26 and 35 of the

Arms Act and Sections 8, 20(b)(ii)(C) and 22 of the Narcotic

Drugs and Psychotropic Substance Act.

3. As per the F.I.R. and seizure list, two live

cartridges along with a OPPO smart mobile has been

recovered from the possession of the petitioner.

4. Learned counsel appearing for the petitioner

submits that the petitioner, who is of clean antecedent, is

innocent and has falsely been implicated in this case. He



further submits that it appears from the F.I.R. and the seizure list that two live cartridges along with one OPPO mobile have been recovered from the conscious possession of the petitioner. He further contends that, in fact, nothing incriminating has been recovered from the conscious possession of the petitioner rather the recovery has been planted with ulterior motive. He further submits that Section 100 of the Cr.P.C. has not been compiled by the prosecution while preparing the seizure list. The petitioner is rotting in judicial custody since 03.11.2023.

5. Learned A.P.P. for the State opposed the prayer for bail of the petitioner.

6. From bare perusal of the First Information Report as well as the seizure list as also the impugned order dated 04.01.2024 passed by the learned Special Judge, Sitamarhi, it appears that two live cartridges along with a OPPO smart mobile has been recovered from the possession of the petitioner and the petitioner bears the clean antecedent. No independent witness has come forward to support the seizure list and the petitioner has been languishing in judicial custody since 03.11.2023.

7. Considering the facts and circumstances of the



case and submissions made on behalf of the petitioner, this Court is inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner is allowed.

8. Let the, above named, petitioner 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 learned Special Judge, N.D.P.S. Act, Sitamarhi in connection with Sitamarhi P.S. Case No. 826 of 2023.

9. The trial court is directed to conclude the proceeding of framing of charge according to law within a period of 15 (fifteen) days from the date of receipt of a copy of this order. However, it is made clear that if the charge-sheet has not been submitted then the above name petitioner shall be released on bail on furnishing bail bond with further condition that the petitioner shall present physically on each and every date before the Trial Court till conclusion of the proceeding of framing of charge.

(Ramesh Chand Malviya, J)

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