

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26558 of 2024

Arising Out of PS. Case No.-149 Year-2023 Thana- SAHARGHAT District- Madhubani

Md. Shami Alam @ Laddu @ Shami Alam Son of Late Mor Salim @ Md.
Muslim Resident of Village Jafarpur, P.S. Belsand, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pushpendra Kumar Singh, Advocate

For the Opposite Party/s : Md. Ataur Rahman, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 26-04-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in Shaharghat P.S. Case No. 149 of 2023, instituted for the offences under Sections 20, 22 of the NDPS Act, Sections 25(1-B)a, 26 and 35 of the Arms Act.

3. Prosecution allegation, in short, is that, there is recovery of one country made pistol, one live cartridge and 1 Kg ganja from the possession of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for



the petitioner further submits that the seized articles does not belong to the petitioner. The petitioner was a passerby of that way and on the basis of suspicion police has arrested the petitioner. It is submitted that there is no compliance of Section 100 of the Cr.P.C. The recovered contraband is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. The petitioner is in custody since 09.11.2023 and has got two criminal antecedents. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. It is lastly submitted that similarly situated co-accused has been granted bail by this Court vide order dated 02.04.2024 passed in Cr. Misc. No. 23036 of 2024.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Considering the aforesaid facts and circumstances of the case, the recovered contraband being below the commercial quantity, the period of custody undergone by the petitioner and claim based on parity, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court



below/concerned Court in connection with Shaharghat P.S. Case
No. 149 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of
the family of the petitioner.

(II) The petitioner shall appear on each and every date
fixed at the trial. In case of default in such appearance on two
consecutive dates, the Trial Court will have liberty to cancel the
bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

Rajorshi/-

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