

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24056 of 2024**

Arising Out of PS. Case No.-1 Year-2024 Thana- MOHIUDDIN NAGAR District-
Samastipur

Baiju Kumar @ Baiju Mahto S/o Hareram Mahto @ Hare Ram Singh R/o vill
- Goshpur, P.s. - Dalsinghsarai, Distt. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sabal Kumar Jha, Advocate
For the Opposite Party/s : Mr. Nityanand, APP

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

ORAL ORDER

2 08-04-2024 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with
Mohiuddin Nagar PS Case No. 01 of 2024 instituted for the
offences under Sections 399, 401, 402, 414 of the Indian Penal
Code and Sections 25(1-B)a, 26 & 35 of the Arms Act.

3. Prosecution allegation, in short, is that there is
recovery of one loaded country made pistol, one live cartridge
and mobile phone from the possession of the petitioner. It is also
alleged that there is recovery of two kilograms of ganja from the
possession of co-accused, Subodh Kumar.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in the



present case. Petitioner was not arrested on the spot and name of the petitioner has transpired on the basis of disclosure made the apprehended co-accused persons. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner further submits that petitioner has no concern with the alleged contraband. 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 01-01-2024. and has got five criminal antecedents. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. Other co-accused has been granted bail by this Court *vide* order dated 01-04-2024, passed in Cr. Misc. No. 21937 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, claim based on parity and the period of custody undergone by the petitioner, 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 Mohiuddin Nagar
PS Case No. 01 of 2024, 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)

Raj Kishore/-

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