

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32138 of 2024

Arising Out of PS. Case No.-9 Year-2024 Thana- CHHATAUNI District- East Champaran

Ajay Kumar Singh, S/o Late Kamkhya Narayan Singh, R/o Dharmasamaj
Chowk, ward no 12, P S – Chhatauni, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Singh, Advocate

For the Opposite Party/s : Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 18-09-2024 Heard Mr. Manoj Singh, learned counsel appearing
on behalf of the petitioner and Mr. Jai Narain Thakur, learned
APP appearing on behalf of the State.

2. The petitioner apprehends his arrest in connection
with Chhatauni P.S. Case No. 09 of 2024 registered under
Sections 25(9), 30, 35 and 27 of the Arms Act.

3. As per the allegation made in the FIR, the son of
the petitioner, who was on a motorcycle, was intercepted by the
police officials and arms and ammunition were recovered from
his possession.

4. Learned counsel appearing on behalf of the
petitioner submitted that petitioner is innocent and he has falsely
been implicated in the present case. Learned counsel further
submitted that the petitioner is the Ward Commissioner of Ward



No.12, East Champaran and he has no connection with the alleged activity of his son. The petitioner has claimed that he is the license holder of the arms, which was seized by the police officials and was carried by his son. The petitioner has clean antecedent. On these grounds, the petitioner seeks to be released on bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail.

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that the license of the seized arms, is registered in the name of the petitioner and the recovery was made from the son of the petitioner, I find it apt to reproduce Rule 13 of **The Arms Rules, 1962**, which is, *inter alia*, as follows:

“13. Of retainers – (1) When the owner of any arms or ammunition licensed in Form III applies for permitting his agent, relative or employee to possess or carry any of the arms or ammunition covered by the licence for sport, protection or display, on his behalf, whether in attendance on him or not, and in circumstances different from those mentioned in the proviso to section 3, such agent, relative or employee may, if the licensing authority considers it fit, be shown as a retainer by entering his name and other particulars in column 6 of the owner's



licence in Form III.

NOTE – The owner of any weapon may apply to the licensing authority to omit the name of the retainer and in all such cases, the licensing authority shall omit the name of the retainer. When a retainer ceases to be in the service of the owner, he shall not be entitled to possess or carry any of the arms or ammunition allowed until then, nor shall any person who subsequently comes in the service of the owner be so entitled until and unless his name and particulars are entered in like manner in the licence.

3) A licence in Form III-A for possession and carrying of arms or ammunition may be granted to a person nominated to be his retainer by a person exempted from licensing requirements:

Provided that the retainer shall have no right, independent of the person so exempted, to use the arms or ammunition covered by the licence, and the licence shall cease to be in force on the day on which the person so exempted has ceased to be an exemptee, or the retainer has ceased to be in the service of the exemptee:

[Provided further that the licensing authority shall obtain a report from the Police, about the antecedents of the retainer and take into consideration such report before admitting him as a retainer.]”

Note : Form III read with Rule 13 of the Arms Rules, 1962 provides that “Any breach of the conditions of this licence is punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both



(section 30 of The Arms Act, 1959). ”
(Emphasis supplied)

7. In above facts and circumstances of the case and upon fulfilling of the condition prescribed under Rule 13 of the Arms Rules, 1962, the learned District Court is directed to release the petitioner on anticipatory bail, in the event of his arrest or surrender before the learned District Court within a period of four weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each, to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Chhatauni P.S. Case No. 09 of 2024, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. The learned District Court is directed to verify the criminal antecedent of the petitioner, as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner, as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J.)

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