

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39902 of 2024

Arising Out of PS. Case No.-109 Year-2023 Thana- SIWAN CITY District- Siwan

MASOOM ALI @ MASUM ALI SON OF SAIYAD ALI RESIDENT OF
VILLAGE - BINDAWAL RASULPUR, POLICE STATION -
HUSSAINGANJ, DISTRICT - SIWAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Advocate
For the Opposite Party/s : Mr.Arun Kumar Pandey, APP

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

ORAL ORDER

3 26-07-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
N.D.P.S. Trial No. 03 of 2024, arising out of Siwan Town P.S.
Case No. 109 of 2023 instituted for the offences under Sections
413/414/34 of the Indian Penal Code, Sections 25(1-b)a, 26, 35
of the Arms Act and Sections 20(b)(ii)(B), 22, 24 of the
N.D.P.S. Act.

3. Prosecution case, in short, is that, police during
patrolling apprehended four persons and seized various articles.
It is further alleged that one black coloured motorcycle was
recovered from this petitioner.

4. Learned counsel for the petitioner submitted that the
petitioner has falsely been implicated in the present case.



Learned counsel further submitted that petitioner has committed no offence as alleged in the FIR. Learned counsel further submitted that so far as recovery is concerned, arms and ammunitions and 1.200 Kg *ganja* has been recovered from the co-accused persons. No incriminating article has been recovered from the conscious possession of the petitioner. Learned counsel further contended the recovered motorcycle belongs to the petitioner. Petitioner is in custody since 27.02.2023 and has three criminal antecedents. There is no allegation of tampering of witnesses alleged against the petitioner. The recovered contraband is below commercial quantity, and hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Section 42 and 50 of the N.D.P.S. Act.

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, no recovery of any incriminating article from the conscious possession of the petitioner as also 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 Siwan Town P.S. Case No. 109 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)

Alok Verma/-

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