

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48552 of 2024

Arising Out of PS. Case No.-461 Year-2023 Thana- NOORSARAI District- Nalanda

Bharat Chauhan, S/O Chauthi Chauhan, R/O Village-Daruaro, Beldari, P.S.-
Noorsarai, Distt-Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Hansraj, Advocate

For the Opposite Party/s : Mr. Ram Anurag Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-09-2024 Heard Mr. Hansraj, learned Advocate appearing on behalf of the petitioner and Mr. Ram Anurag Singh, learned Additional Public Prosecutor for the State.

2. The application for grant of bail to the petitioner who is in custody in connection with N.D.P.S. Case No. 41 of 2023 arising out of Noorsarai P.S. Case No. 461 of 2023 registered for the offence punishable under Sections 307, 353, 386, 387, 399 and 402 of the Indian Penal Code, Sections 25(1-b)a, 26, 27 and 35 of the Arms Act and Section 8 and 21(B) of the N.D.P.S. Act.

3. The police on a tip off assemblage of miscreants raided the place of occurrence, however noticing the police party the miscreants resorted firing on the police force but the petitioner was apprehended by the police and the other



miscreants succeeded in fleeing away. On search, one loaded country made pistol, a live cartridge and 53 sachets, total around 35.76 gram brown sugar were recovered.

4. Learned Advocate appearing on behalf of the petitioner contended that the narratives made in the FIR clearly suggest that there were assemblage of miscreants when the police conducted raid; in fact on noticing the police party other accused persons succeeded in fleeing away and the incriminating material which were recovered from the place of occurrence, it has been shown to be recovered from the possession of the petitioner. It is next contended that the implication of the name of the petitioner in the present crime is because of his criminal antecedent, which has been mentioned in paragraph no. 3 thereof. It is next contended that so far the alleged recovered brown sugar like substance is concerned, the same is though above the small quantity, but much below the commercial quantity and, as such, the twin requirement as provided under Section 37 of the NDPS Act would not be applicable. Be that as it may, now the petitioner has been incarcerated since 29.09.2023, for almost a year. The petitioner undertakes that he will fully cooperate in the proceeding of the Court.

5. On the other hand, learned Additional Public



Prosecutor for the State vehemently opposes the bail application and submits that the petitioner carrying nine criminal antecedent over his head, which suggest that the petitioner is a habitual offender indulged in such criminal activities, moreover, apart from the arms, narcotic substance has also been recovered.

6. Regard being had to the submissions made on behalf of the parties and considering the period of custody and the fact that the investigation of the crime is complete and the chargesheet has been submitted coupled with the quantity of narcotic substance which does not attract the rigors provided under Section 37 of the NDPS Act, moreover mere criminal antecedent of the person cannot be the sole ground to keep him in the custody for an indefinite period, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-sum-Special Judge, Nalanda, Bihar Sharif in connection with N.D.P.S. Case No. 41 of 2023 arising out of Noorsarai P.S. Case No. 461 of 2023, with a condition that the petitioner shall mark his attendance in the local police station on first week of every month till one year and also subject to the condition that one of the bailors will be the close relatives of the petitioner with



further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

supratim/-

U		T	
---	--	---	--

