

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58771 of 2024

Arising Out of PS. Case No.-257 Year-2022 Thana- BELA District- Sitamarhi

Mithilesh Mandal @ Jayala Mandal @ Jayala S/o- Late Dukha Mandal
Village- Majhaura Tol Ps- Bela Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha

For the Opposite Party/s : Mr.Shailendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

4 29-11-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. This is an application for regular bail on behalf of the petitioner for the offences alleged under Sections 399/402 of the Indian Penal Code, Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 8, 20(b)(ii) (c) and 22 of the N.D.P.S. Act, registered in connection with Bela P.S. Case No. 257 of 2022.

3. As per allegation, on getting secret information about assembling of 40-45 miscreants around Majhaura river and planning to commit dacoity, the informant along with other police personnel reached at the spot. The petitioner along with other miscreants were apprehended on the spot and some of them managed to escape. In presence of witnesses, apprehended accused were searched and from possession of this petitioner, 1 Kg of



charas and a mobile were recovered.

4. The learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated. He has submitted further that though on the exactly similar footing, the bail application of co-accused Mukesh Kumar Paswan @ Mukesh Kumar was rejected by this court vide order dated 03.09.2024 in Cr. Misc. No. 83827 of 2023, holding that the recovered *charas* was of commercial quantity but the weight of *Gamchha* was not deducted from the weight of recovered *charas*. He has also submitted that even if it is assumed to be true that exact weight of *charas* was exactly 1 kg, it is the upper limit of the commercial quantity and slightest increase in the weight of 1 kg shall make the quantity as a commercial quantity.

5. On exactly similar footing, this court has rejected the bail application of Mukesh Kumar Paswan @ Mukesh Kumar, so the dichotomous order cannot be made in the case of present petitioner.

6. Accordingly, the bail application of the petitioner is hereby rejected.

(Nawneet Kumar Pandey, J)

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