

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63753 of 2024

Arising Out of PS. Case No.-306 Year-2024 Thana- MOTIHARI TOWN District- East
Champaran

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Md. Musharib Khan @ Mosharib Khan Son of Ansarul Haque @ Md.
Ansarul Haque Khan R/o Mohalla- Agarwa Ward No.38, P.S.- Motihari
Town, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate
		Mr. Hemant Ray, Advocate
For the Opposite Party/s	:	Mr. Narsingh Tanti, APP

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 04-10-2024 Heard the learned Advocate for the petitioner and the

learned APP for the State.

2. The petitioner seeks regular bail, who is in custody
in connection with Motihari Town P.S. Case No. 306 of 2024,
registered for the offence punishable under Sections 399, 402
and 120(B)/34 of the Indian Penal Code, Section 25(1-AA),
25(1-A), 25(1)(d), 26 and 35 of the Arms Act and Sections
20(B)(ii)(c), 23(c) and 29 of the Narcotic Drugs and
Psychotropic Substances Act, 1985.

3. On secret information regarding assemblage of
miscreants, the police conducted raid from where three persons
including the petitioner were apprehended and five were
managed to escape. On search, various incriminating materials



including pistol, live cartridges and *charas* like substance were recovered. A separate seizure list was prepared which suggests that from the possession of the petitioner one dagger and a mobile phone were recovered. It is specifically alleged that from the possession of one Harshit Kumar Srivastava, 1.10 Kg. *charas* like substance, pistol and live cartridges were recovered.

4. Learned Advocate for the petitioner contended that from the seizure list, it appears that only one dagger and mobile were recovered from the possession of the petitioner. In fact on the alleged date of occurrence when the police conducted raid, the accused persons who were really involved in crime succeeded in fleeing away, leaving their incriminating materials and on being found the petitioner present near the place of occurrence, his name has been implicated in this case. One of the co-accused person, having identical allegation, has been accorded the privilege of regular bail by this Court in Cr. Misc. No. 54629 of 2024 vide order dated 14.08.2024 and the case of the petitioner is based on parity. It is lastly contended that, be that as it may, now the petitioner has been incarcerated since 29.05.2024.

5. On the other hand, learned APP for the State



vehemently opposes the bail application and submits that the petitioner was apprehended along with other co-accused person, from whose possession incriminating materials, including *charas*, that too in commercial quantity have been recovered.

6. Regard being had to the submissions made on behalf of the parties and considering the nature of recovery from the possession of the petitioner and the case of the petitioner is based on parity, coupled with the fact that the investigation of the crime is complete and charge-sheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, East Champaran, Motihari in connection with Motihari Town P.S. Case No. 306 of 2024, 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)

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