

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68486 of 2024

Arising Out of PS. Case No.-234 Year-2024 Thana- VAISHALI District- Vaishali

Md. Aashique S/o- Md. Asgar @ Md. Asgar Ali R/o Village- Dharphari, P.S.
Dewariya, District-Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K. Agarwal, Sr. Adv.
: Mr. Md Soban Asghar, Adv.
: Mr. Ashad, Adv.
For the Opposite Party/s : Mr. Ganesh Prasad Singh

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 29-11-2024 Heard Mr. N.K. Agarwal, learned Senior Advocate

for the petitioner and Mr. Ganesh Prasad, learned APP for the

State.

2. The petitioner seeks regular bail, who is in custody
in connection with G.R. No. 3525 of 2024 corresponding to
Vaishali P.S. Case No. 234 of 2024 registered for the offence
punishable under Sections 399, 402, 414 of the Indian Penal
Code and 25(1-b)a, 26, 35 of Arms Act.

3. As per the prosecution case it is alleged that the
police on a secret information regarding the assemblage of some
miscreants raided a mango orchard and apprehended four
persons including the petitioner and from the possession of the
petitioner one country-made loaded pistol and a live cartridge

were recovered. There is allegation of recovery of other incriminating materials from the possession of different co-accused persons, as has been disclosed in the seizure list.

4. Learned Senior Advocate for the petitioner contended that the only on account of the fact that some pass-books and other debit cards/ATM cards with some cash were recovered from the possession of other co-accused; thus, suspicion has been raised that the petitioner was also involved in a Bank loot case. Save and except the suspicion, there is no material. Moreover, there is complete denial of recovery of arms from the possession of the petitioner. It is also contended that the petitioner bears one criminal antecedent in identical matter and, in fact, this may be one of the reasons to implicate the name of the petitioner. There are other serious infirmities in the search and seizure, coupled with the fact that there is no independent witness and, as such, in defiance with the provisions of Section 100 of the Cr.P.C. It is also contended that one of the co-accused persons, who was also apprehended along with the petitioner and from whose possession one cartridge was recovered, has been extended the privilege of bail by this Court in Cr. Msc. No. 70005 of 2024.

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

vehemently opposes the bail application and submits that recovery of arms from the possession of the petitioner with other incriminating materials from the spot clearly suggests the involvement of the petitioner in the crime.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the investigation of the crime is complete and the charge-sheet has been submitted; moreover the petitioner is in custody since 28.06.2024, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Vaishali, Hajipur, in connection with G.R. No. 3525 of 2024 arising Vaishali P.S. Case No. 234 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.)

Jyoti Kumari/-

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