

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73009 of 2024**

Arising Out of PS. Case No.-369 Year-2024 Thana- SAHEBGANJ District- Muzaffarpur

Sitesh Kumar, S/o Shivajee Ray, Resident of Turki Khararu, PS- Minapur,  
Distt- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with  
**CRIMINAL MISCELLANEOUS No. 71692 of 2024**

Arising Out of PS. Case No.-369 Year-2024 Thana- SAHEBGANJ District- Muzaffarpur

Kundan Kumar, S/O Prem Shankar Rai, R/O Village- Shitalpatti, P.S-  
Siwaipatti, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**  
(In CRIMINAL MISCELLANEOUS No. 73009 of 2024)  
For the Petitioner/s : Mr. Hari Kishore Thakur, Advocate  
For the Opposite Party/s : Mr. M.K. Nirala, APP

(In CRIMINAL MISCELLANEOUS No. 71692 of 2024)  
For the Petitioner/s : Mr. Ravi Ranjan, Advocate  
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

3      29-11-2024      Heard learned Advocate appearing on behalf of the  
  
petitioners and the learned Additional Public Prosecutor for the  
  
State.

2. Since both the matters are arising out of same P.S. case  
and, as such, with the consent of the parties both the applications are  
being heard together and disposed off by this common order.



3. The application for grant of bail to the petitioners who are in custody in connection with Sahebganj P.S. Case No. 369 of 2024 registered for the offence punishable under Sections 313 of the Bhartiya Nyaya Sanhita and Sections 25(1-B)(a), 26 and 35 of the Arms Act.

4. The police on a tip off assemblage of miscreants with illegal arms and ammunition, raided the place of occurrence and apprehended three persons including the petitioners. Allegedly on noticing the police party, the petitioner in Criminal Miscellaneous No. 71692 of 2024 has hurriedly thrown some incriminating materials, which was later on found to be one pistol and three live cartridges. So far the petitioner in Criminal Miscellaneous No. 73009 of 2024 is concerned, from his possession one pistol and three live cartridges alongwith a mobile were recovered.

5. There is complete denial of any recovery from the possession of the petitioners. Referring to the narrations made in the FIR, learned Advocate appearing on behalf of the petitioners further contended that there is no compliance of the mandatory provision of Section 105 of the Bhartiya Nagarik Suraksha Sanhita, in as much as, the video recording conducted at the time of search and seizure has not been sent to the concerned



jurisdictional Court. It is further contended that the petitioners are men of fair antecedent and now they have been incarcerated since 16.07.2024. The offences even if alleged in the FIR are triable by the Magistrate, that apart, the investigation is complete and the charge-sheet has been submitted.

6. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that recovery of pistol with live cartridges clearly suggest the involvement of petitioners in the crime.

7. Regard being had to the submissions made on behalf of the parties and considering the infirmities in the search and seizure coupled with the investigation being complete and the charge-sheet has been submitted as also the fair antecedent of the petitioners, let the petitioners, 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 1<sup>st</sup> Class, (West) Muzaffarpur in connection with Sahebganj P.S. Case No. 369 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioners with further conditions which are as follows:-

(i) The petitioners will cooperate in conclusion of the



trial.

(ii) They will remain present on each and every date of trial till disposal of the case.

(iii) They 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, their bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioners and in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bonds of the petitioners. 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/-

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