

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82354 of 2024

Arising Out of PS. Case No.-1 Year-2024 Thana- MOHIUDDIN NAGAR District-
Samastipur

Ashutosh Kumar @ Golu @ Morya Son of Ram Rekha Prasad Village
-Madhaipur Ps -Dalsingsarai District -Samsatipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sabal Kumar Jha, Adv.
For the Opposite Party/s : Mr. Md. Aslam Ansari, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

2 03-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
Mohiuddin Nagar P.S. Case No. 1 of 2024 instituted for the
offences under Sections 399, 401, 402, 414 of the Indian Penal
Code and Sections 25(1-b)a, 26, 35 of the Arms Act and Section
08/20 (B) (ii) (A) of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
one loaded country-made *Kutta* along with mobile from the
possession of the petitioner. The petitioner has also recovered 2
Kg. Ganja from the co-accused Subodh Kumar.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence as alleged



against him and has falsely been implicated in the present case. The petitioner was not apprehended on spot rather he was arrested at his own house. He further submits that the alleged incriminating articles including the *Ganja* has been recovered from the possession of the co-accused Subodh Kumar. The petitioner is not the owner of the seized motorcycle. The petitioner has no concern with the seized contraband. The quantity of *Ganja* recovered is less than the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Section 42 and 50 of the N.D.P.S. Act. There is a non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioner has five criminal antecedents out of which in four of them, he is on bail and is languishing in judicial custody since 01.01.2024 without any rhymes or reason. Charge-sheet has been submitted in this case.

5. Learned counsel for the petitioner again submits that the co-accused namely Subodh Kumar has already been granted bail by this Court vide order dated 02.08.2024 passed in Cr. Misc. No. 54262 of 2024.

6. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.



7. Having heard rival contention of both the parties and considering the entire facts and circumstances of the case as also taking into account the period of custody of the petitioner, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Mohiuddin Nagar P.S. Case No. 1 of 2024, subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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