

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30808 of 2025

Arising Out of PS. Case No.-575 Year-2023 Thana- MUFFASIL District- West Champaran

Sajrun Nesha @ Sajrul Nesha @ Sairun Nesha @ Sairul Nesha Wife of Neyaz Ahmad Resident of Village - Kharsawa, Ward No.- 07, P.S.- Balthar, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 27-06-2025 Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner seeks regular bail in connection with Bettiah Muffasil P.S. Case No. 575 of 2023 lodged on 31.08.2023 under Sections 25(1-b)a, 26 and 35 of the Arms Act.

3. Learned counsel for the petitioner submits that the bail application of the petitioner was earlier rejected twice vide orders dated 07.03.2024 and 17.01.2025 passed in Cr. Misc. Nos. 83007 of 2023 and 69754 of 2024 respectively.

4. Learned counsel for the petitioner submits that in the case in which the petitioner has been charged, the maximum punishment prescribed is seven years, and the petitioner has already undergone custody for one year and eleven months, which is approximately one-third of the maximum sentence.



Counsel further submits that Section 479 of the BNSS, 2023, indicates the maximum period for which an undertrial may be detained. As per the first proviso to the said section, it is clearly indicated that where such person is a first time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law.

5. Counsel further submits that the petitioner's one-third period of custody is going to expire within a couple of days. Therefore, it is submitted that, considering the lawful provisions of the BNSS, the petitioner may be directed to be released.

6. Learned APP for the State, on the other hand, opposes the prayer for bail and submits that sub-section (2) of Section 479 of the BNSS, 2023, states that notwithstanding anything in the sub-section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

7. Counsel further submits that, as stated in paragraph 3 of the bail petition, it is crystal clear that the petitioner is an



accused in two other cases, meaning that investigation, inquiry, or trial in more than one offence is pending against him. As such, the benefit of the first proviso to Section 479 of the BNSS, 2023, shall not be available to the petitioner.

8. Upon hearing the parties, this Court deems it necessary to quote Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which reads as follows:-

(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail:

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one- third of the maximum period of imprisonment specified for such offence under that law:

Provided further that the Court



may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of his bond:

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

(2) Notwithstanding anything in sub-section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a person, he shall not be released on bail by the Court.

(3) The Superintendent of jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail.

9. In the present facts and circumstances of the case, and in view of the submissions made above, it transpires to this



Court that the benefit under the BNSS is intended for a person having clean criminal antecedents as indicated in Section 479(2) of the BNSS, 2023. However, in the present case, the petitioner admittedly has three criminal cases pending against him, including the present one.

10. In this view of the matter, this Court is not inclined to grant bail to the petitioner. Therefore, the bail application of the petitioner is hereby rejected.

(Dr. Anshuman, J.)

Aman Kumar/-

U		T	
---	--	---	--

