

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31897 of 2025

Arising Out of PS. Case No.-873 Year-2023 Thana- HAJIPUR SADAR District- Vaishali

Himanshu Kumar Son of Arun Kumar Sharma R/O Village - Bishumpur Indu,
P.S.- Sarai, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Raj Ballabh Singh, APP

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

ORAL ORDER

2 09-05-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with Hajipur Sadar P.S. Case No. 873(B) of 2023, instituted for the offences under Sections 143, 307, 353, 414 of the Indian Penal Code, read with Sections 25(1-B)(a), 26 and 35 of the Arms Act, Sections 8(c) and 21(b) of the NDPS Act.

3. Prosecution allegation, in short, is that there is recovery of one country made pistol along with two live cartridge and 102.96 gram smack was recovered from the possession of the petitioner. It is further alleged that the petitioner was also with the co-accused at the time of occurrence but, he managed to escape away from there.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner further submits that the allegation levelled against the petitioner is general and omnibus in nature. Name of the petitioner has transpired in this case on the basis of confessional statement made by co-accused, namely, Rahul Kumar and the same has got no evidentiary value. It is next submitted that the petitioner has got no concern with the alleged recovery of arms and smack. The recovered contraband is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. The petitioner is in custody since 07.12.2024 and has got four criminal antecedents in which he is on bail in three cases. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. Learned counsel for the petitioner further submits that similarly situated co-accused has been granted regular bail by this Court vide order dated 17.02.2025 passed in Cr. Misc. No. 7569 of 2025.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Considering the aforesaid facts and circumstances



of the case, the recovered contraband being below the commercial quantity and the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail *after framing of charge, if not already framed* 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 Hajipur Sadar P.S. Case No. 873(B) of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(Rudra Prakash Mishra, J)

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