

IN THE COURT OF THE SESSIONS JUDGE, SAHARSA
Criminal Misc. No. 58/2023

Sujit Kumar S/O- Sanoj Das, resident of village- Nariyar, ward no. 11,

P.S. & Dist. SaharsaPetitioner

Versus

The State of BiharOpposite Party

Order-sheet

22-08-2023: The record is put up for hearing.

2. This Criminal Misc. petition has been filed on behalf of the above named petitioner on 11.08.2023 seeking modification in bail order dated 03-08-2023 passed in R.B.A. No. 475/2023 by this court relating to Saharsa P.S. Case no. 267/2023, pending in the court of the C.J.M., Saharsa.

3. Learned counsel Sri Rabindra Prasad Singh who appeared on behalf of the petitioner has urged that the prayer for regular bail of the petitioner above named is allowed by this court vide order dated 03-08-2023 passed in R.B.A. no. 475/2023 with condition that the petitioner be released on bail AFTER FRAMING OF CHARGE IN THIS CASE on furnishing bail bond of Rs.20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of the learned lower court subject to other conditions. It has been further urged that on 07-08-2023 learned Court below heard both parties on the point of cognizance and after hearing perused the case record along with case diary, charge sheet the learned Court ordered that charge-sheet has been submitted by the I.O. without obtaining sanction report u/s- 39 of the Arms Act. So without sanction report court has no power to took cognizance or prosecution instituted against the petitioner in respect of any offence u/s- 3 of the Arms Act without previous sanction of the District Magistrate, and the case record fixed for obtaining sanction report. It has been further urged that

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I.O. of this case has sent a petition for the Sanction report to the office of the District Magistrate, Saharsa vide memo no. 1159/23 dated 02-06-2023 which is evident from Para no. 49 of case diary but no sanction has been granted by the District Magistrate, Saharsa to prosecute the petitioner u/s- 3 of the Arms Act. It has been further urged that the petitioner is rotting in jail custody since 03-05-2023 and he is only son of his parents and his mother is seriously ill. It has been further urged that the petitioner is ready to obey all the other conditions as laid down in the bail order and if the petitioner is released without the condition "Release after charge" the petitioner undertakes that he will remain present physically in this case on fixed date for "hearing on cognizance" or "charge". At last, learned counsel for the petitioner prayed that the bail order dated 03-08-2023 passed in R.B.A. no. 475/2023 may be modified and further suitable order may be passed.

4. Learned P.P. for the opposite party State of Bihar has formally opposed the prayer of the petitioner however he has conceded the fact that no sanction report to prosecute the petitioner u/s- 3 of the Arms Act could be obtained from the District Magistrate, Saharsa as yet.

5. Having heard both sides I perused the record as well as the case record of Saharsa P.S. case no. 267/2023 which has been called for. It is evident from perusal of the L.C.R. that the sanction report has not been produced and charge in this case has not been framed as yet and the case is still pending for cognizance. The petitioner is in custody since 03-05-2023.

6. Considering the above facts and circumstances the part of the conditions in the order dated 03-08-2023 passed in R.B.A. No. 475/2023 "AFTER FRAMING OF CHARGE IN THIS CASE" is modified

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as “AFTER FRAMING OF CHARGE OR 04 MONTHS COMPLETION IN CUSTODY WHICH EVER IS EARLIER”. The remaining part of the order will remain as it is.

7. Accordingly this Criminal Miscellaneous petition is disposed of.

8. Let a copy of this order along with the L.C.R. be sent to the learned court below forthwith.

Dictated & corrected by me,

Sd/-

Sessions Judge