

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52695 of 2019

Arising Out of PS. Case No.-104 Year-2018 Thana- RAMGARHWA District- East
Champaran

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NEK MOHAMMAD @ RAJ MOHAMMAD S/O Md. Muslim Mian @
Muslim Mian Resident of village- Auraiya, P.S.- Adapur, District- East
Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shambhu Sharan Singh

For the Opposite Party/s : Mr.Abhay Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 27-11-2019 Heard the learned counsel for the petitioner and the

learned APP for the State.

The petitioner seeks regular bail in connection with
Ramgarhwa PS case no. 104 of 2018 instituted for the offences
punishable under Sections 414 of Indian Penal Code and 25(1-
B)a, 26 of Arms Act and 20(b)(ii)(B) of N.D.P.S. Act.

The allegation against the petitioner is regarding the
police being on patrolling duty when is said to have received
confidential information that a notorious criminal i.e. the
petitioner herein is going to arrive on a motorcycle, whereupon
the police had intercepted the motorcycle and arrested the
person driving the said motorcycle, who had then disclosed his
name as Nek Mohammad i.e. the petitioner herein. Thereafter,



search was made and 2 kg of charas, one loaded countrymade pistol, two live cartridges and one mobile were recovered from the possession of the petitioner herein.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case on account of his bad antecedent. It is further submitted that the petitioner is languishing in custody since 30.05.2018 and there is no progress in the trial.

I have heard the learned counsel for the parties and perused the materials on record. I find from the record that 2 kg of charas has been recovered from the petitioner herein, whereas as per the schedule to the N.D.P.S. Act, 1985, the commercial quantity has been defined to be 1 kg and small quantity has been defined to be 100 gm and in the present case, the recovery of charas is more than the commercial quantity, thus this Court finds that in view of Section 37 of the N.D.P.S. Act, 1985, according to which this Court, for the purposes of grant of regular bail, is required to first come to a finding of the petitioner's innocence, which is not possible at this stage and secondly, this Court is to be satisfied that there are reasonable grounds for believing that the petitioner is not likely to commit any offence, which also cannot be assessed by this Court at the moment, hence, the privilege of



regular bail cannot be extended to the petitioner herein, thus the present petition is dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

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