

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20855 of 2020

Arising Out of PS. Case No.-77 Year-2020 Thana- DANAPUR District- Patna

MD. SAKIR KHAN Son of Kunmun Master Resident of Village-Sultanpur,
Police Station-Danapur, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Yadav

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

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 23-06-2020 The present petition has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

At the outset, the learned counsel for the petitioner undertakes to remove all the defects, as pointed out by the stamp reporter, within a period of four weeks from resumption of normal physical functioning of the Court including resumption of physical filing.

Heard the learned counsel for the petitioner and Shri Ashok Kumar, the learned A.P.P. appearing for the State.

The petitioner seeks regular bail in connection with Danapur P.S. Case No. 77 of 2020 (Special Case No. 22 of 2020) for the offence punishable under Sections 25(1-b) a/26/35



of the Arms Act and Sections 20, 22, 23, 24 of the N.D.P.S. Act.

The allegation is regarding recovery of one loaded country made pistol and some cartridges from the co-accused namely Ashik Kuraishi and mobile phones from the other accused persons including the petitioner herein. It is further alleged that 4.5 kg ganja was recovered from the middle seat of the Tata Indigo vehicle.

The learned counsel for the petitioner has submitted that there is no compliance of Section 100 of the Code of Criminal Procedure as far as preparation of the seizure list is concerned, hence entire seizure is illegal and void. It is also submitted that the petitioner was not present in the car, he has been falsely implicated in the present case, he is having a clean antecedent and is languishing in custody since 28.01.2020.

Per contra, the learned Additional Public Prosecutor appearing for the State has vehemently opposed the prayer for bail.

I have heard the learned counsel for the parties, considered their submissions and I find from the seizure list that as far as the petitioner is concerned, only one mobile phone has been seized by the police upon search of the body of the petitioner and the aforesaid 4.5 kg ganja has been recovered



from an Indigo car. This Court further finds that the learned Additional Sessions Judge-XXIV, Patna, who has passed the impugned order dated 29.05.2020 has wrongly stated in the impugned order that the aforesaid 4.5 kg ganja has been recovered from the possession of the petitioner accused as well as other co-accused persons. It is thus clear that the learned Additional Sessions Judge-XXIV, Patna has passed the impugned order dated 29.05.2020 in a casual, perfunctory and negligent manner.

Having regard to the facts and circumstances of the case, considering the fact that no recovery of ganja has been made from the conscious possession of the petitioner as also no recovery of arms has been made from the person of the petitioner, apart from the fact that as per the table forming part of N.D.P.S. Act, 1985, the commercial quantity of ganja has been stated to be 20 kg, whereas only 4.5 kg ganja has been recovered from the car in question and further taking into account the fact that the petitioner is having a clean antecedent and is languishing in custody since 28.01.2020, I deem it fit and proper to direct for release of the petitioner on regular bail.

Accordingly, the petitioner, above-named, are directed to be enlarged on regular bail on furnishing bail-bonds



of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge- XXIV, Patna in connection with Danapur P.S. Case No. 77 of 2020 (Special Case No. 22 of 2020).

(Mohit Kumar Shah, J)

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