

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24090 of 2020

Arising Out of PS. Case No.-84 Year-2020 Thana- HAJIPUR District- Vaishali

Vijay Kumar @ Vijay Rai, aged about 23 years, Male, Son of Ram Das Ray,
Resident of Village - Mangurahi, P.S.- Ganga Bridge, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar, Advocate
For the State : Mr.Raj Ballabh Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 09-12-2020 Heard the parties through the virtual court proceeding.

The petitioner seeks bail in connection with Hajipur Town P.S. Case No.84 of 2020 registered for the offence punishable under Section 414 of the Indian Penal Code and Sections 20(b)(ii) and 22 of the Narcotic Drugs and Psychotropic Substance Act.

The prosecution started on the basis of written report of one Satyendra Kumar, A.S.I. of Hajipur Town P.S. on 29.01.2020 at about 09.10 A.M. submitted to S.H.O. Hajipur Town P.S. alleging therein that on the same day at 04.00 A.M., he was along with police personnel proceeded on a government vehicle for patrolling. During course of patrolling at about 6.40 A.M., he along with police personnel reached near Jadhua



vegetable hat and he saw one person was coming on a black splendor motorcycle with a plastic bag towards Mahnar road, which was intercepted near the Nagar Parishad Toilet, on which, on the help of police personnel caught the motorcycle rider. On interrogation of apprehended person who disclosed his name as Vijay Kumar son of Ram Das Rai of village Mangurahi, P.S. Ganga Bridge, District Vaishali and on seeing the police action nearby people assembled there. The assemble people refused to witness of search and seizure. On which, two members of raiding team of Homeguard constables made witness of search and seizure was made and their presence search was made according to law and on search of bag (Jhola) and found Ganja. Thereafter, information was made to the higher official and on direction recovered Ganja and motorcycle along with apprehended persons brought on the police station. On demand valid document regarding recovery of motorcycle and Ganja, but no valid document was produced by the apprehended persons. Thereafter, recovered Ganja was weighed and found 5 kg 200 gram recovered ganja. Thereafter, on presence of witnesses sample was prepared and seizure list was prepared, on which signature was made on the seizure list by the witnesses.

Learned counsel for the petitioner submits that the



petitioner is quite innocent and committed no offence and has falsely been implicated in this case. He further submits that nothing has been recovered from possession of the petitioner. On perusal of F.I.R., it appears that the alleged search has not been conducted as per provision of Section 50 of the N.D.P.S. Act which requires that the petitioner ought to have been searched in presence, either of a Gazetted Officer, even informant has not made consent from the apprehended persons about search and seizure and prior to that he ought to have been informed about his right of being searched, either before Gazetted Officer or before a Magistrate.

Learned A.P.P. for the State has vehemently opposed the prayer for bail and submits that 5 kg 200 gram of ganja was recovered from possession of the petitioner.

Learned counsel for the petitioner submits that the petitioner is in jail custody since 30.01.2020 and the petitioner has got no any criminal antecedent mentioned in paragraph-3 of the bail petition. He further submits that the charge sheet has been submitted and there is no allegation against the petitioner to tamper with the witness.

In the facts and circumstances of the case, let the above named petitioner be enlarged on bail after completion of



one year of jail custody on furnishing bail bond of Rs. 25,000/-
(twenty five thousand) only with two sureties of the like
amount each to the satisfaction of learned Sessions Judge-cum-
Special Judge (N.D.P.S. Act), Vaishali at Hajipur in connection
with Hajipur Town P.S. Case No. 84 of 2020.

(Anjani Kumar Sharan, J)

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