

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.12848 of 2021**

Arising Out of PS. Case No.-146 Year-2020 Thana- MALSALAMI District- Patna

=====

AVINASH KUMAR @ SHAHRUKH S/O Sanjay Yadav Resident of Moh. -
Simil Shahdara, P.S. - Malsalami, District - Patna.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

=====

Appearance :

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

For the Opposite Party/s : Mr. Binod Kumar No. 3, APP

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 15-06-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned

A.P.P. for the State.

Petitioner in the present case is seeking regular bail in

connection with Special Case No. 77 of 2020 arising out of

Malsalami P.S. Case No. 146 of 2020 registered for the offences

punishable under Sections 399 and 402 of the Indian Penal

Code, under Sections 25(1-b) a, 26 and 35 of the Arms Act and

under Sections 20 and 22 of the Narcotic Drugs and

Psychotropic Substances Act, 1985 (in short 'N.D.P.S. Act').

Learned counsel for the petitioner submits that as per



the prosecution story the informant was on night patrolling duty when he got secret information that some miscreants have assembled at Bazar Samit for committing crime. The informant along with police party proceeded towards the said place and saw 5-6 people on a motorcycle. On seeing police the accused persons tried to flee away but four persons (including this petitioner) were caught and upon search 1.4 kg of ganja was seized from the possession of this petitioner.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that the ganja seized from the possession of this petitioner is much less than the commercial quantity. Learned counsel submits that the petitioner is in jail since 01.06.2020.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the petitioner that as per the prosecution story one country made loaded pistol and 1.4 kg of ganja which is less than the commercial quantity has been seized from the possession of this petitioner, his further submission that the seizure of ganja was



allegedly made in complete contravention of provisions of Section 42 of the N.D.P.S. Act, 1985 and further submission that the petitioner has remained in jail in connection with the present case since 01.06.2020, investigation against him is complete but the trial is not likely to be concluded in near future and the two cases in which the petitioner is involved as stated in paragraph '3', the petitioner is said to be on bail and to this effect an affidavit will be filed in the learned court below while submitting the bail bond, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-4, Patna City in connection with Special Case No. 77 of 2020 arising out of Malsalami P.S. Case No. 146 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly



make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that while submitting the bail bond the petitioner shall file an affidavit stating that he is on bail in the two cases mentioned in paragraph '3' of this application.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rishi/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

