

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.19543 of 2021**

Arising Out of PS. Case No.-85 Year-2020 Thana- CHORAUT District- Sitamarhi

Prakash Pandey @ Prakash Kumar Son Of Bhola Pandey Resident Of
Village- Ekari, P.S. Madhavpur, District- Madhubani

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Naresh Chandra Verma, Advocate

For the Opposite Party/s : Ms. Asha Devi, APP

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

4 22-10-2021 Heard learned counsel for the petitioner and Ms. Asha
Devi, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Choraut P.S. Case No. 85 of 2020 registered for the offence under Section 20(b)(ii)(c) and 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the “N.D.P.S. Act”). Petitioner is in custody since 29.08.2020. He has no criminal criminal antecedent.

As per the prosecution story, when the Sub-Inspector of Police stopped one Auto Rickshaw coming from Basotara side, on seeing police party the persons who were in the vehicle started fleeing away. On chase the police put catch hold of this petitioner. From the Auto Rickshaw four packet ganja in four plastic bags and 10 Kg. Ganja wrapped in plastic in another bag total 50 Kg. Ganja has been recovered from the back seat of the Auto Rickshaw.



Learned counsel for the petitioner submits that this petitioner is the driver of the vehicle and the vehicle was taken by him on hire from one Chunni Devi to ply the same on road. It is further submission that three persons had hired the vehicle on the pretext of going to Pupri but on looking the police party they fled away. It is submitted that the petitioner being the Auto Rickshaw driver has been arrested by police. Submission is that he being the driver of the vehicle was not supposed to know the name of the passengers and the articles kept in their luggage.

On the other hand, Ms. Asha Devi, learned A.P.P. for the State has opposed the prayer for bail of the petitioner. It is submitted that no material has come in the case diary to support the submission of the petitioner that he was the driver of the vehicle. In fact this petitioner is one of the passengers and he was fully aware of the contraband article kept in the plastic bags and that is the reason why he was also trying to flee away with the other co-accused but he was arrested.

Learned A.P.P. points out that this petitioner is a resident of village Ekari which is under Madhawpur Police Station in the district of Madhubani whereas the vehicle in question was running within the jurisdiction of Choraut Police Station in the district of Sitamarhi. It is evident that the petitioner is not the driver and he was in conscious possession of the contraband article which is



more than commercial quantity, thus, rigours of Section 37(2)(b) of the N.D.P.S. Act, 1985 would be attracted.

Considering the fact that this petitioner is said to be one of the persons who was there on the Auto Rickshaw and was trying to flee away on seeing the police party and thereafter he was chased and Ganja of more than commercial quantity has been recovered, in view of the rigours of Section 37(2) of the N.D.P.S. Act, 1985, this Court is not inclined to release the petitioner on bail at this stage.

Since the petitioner has remained in custody for over one year, it is expected that the learned trial court shall proceed with the trial as early as possible and all endeavours be made to conclude the same preferably within a period of one year.

If the trial is not concluded within a period of one year and/or some material witnesses are examined in course of trial based on which if the petitioner is so advised, he may renew his prayer for bail.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

