

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28522 of 2021

Arising Out of PS. Case No.-633 Year-2020 Thana- KANTI District- Muzaffarpur

VISHAL KUMAR S/O SHARMA YADAV R/o village- Jurabganj, P.S.-
Kodha, District- Katihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rana Vikram Singh, Adv.
For the Opposite Party/s : Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 01-11-2021 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 Kanti P.S. Case No.633/2020 (NDPS Case No.98/2020) registered for the offences punishable under Sections 20 and 22 of the N.D.P.S. Act, Sections 25(1-B)a, 26 and 35 of the Arms Act and Sections 401, 413 and 34 of the Indian Penal Code. He is in custody since 17.10.2020. The petitioner has got no criminal antecedent.

As per the prosecution story on 16.10.2020 at about
8.30 am on the secret information reached near Chhapra Kali



mandir and started checking the vehicles and course of checking he apprehended two persons including this petitioner riding on a motorcycle bearing Reg.No.BR06BA-8431. On interrogation, they disclosed their name as Aryan Kumar and Vishal Kumar (petitioner). It is alleged that in course of search, one country made pistol and one live cartridge and 400 grms of charas were recovered.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Learned counsel submits that there is no recovery from the conscious possession of the petitioner and the alleged quantity of charas is less than the commercial quantity, therefore, the rigours of Section 37 of the N.D.P.S. Act, 1985 would not be attracted. It is submitted that the petitioner has otherwise no criminal antecedent and has remained in custody in connection with this case since 17.10.2020.

Learned APP for the State is present and 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 the recovery of one country made pistol and one live cartridge have been shown from the possession of the



petitioner but so far as the recovery of 400 gms of substance like charas is concerned, the same was found from the carrier of the vehicle and as such the same cannot be said to be in conscious possession of the petitioner because there were two persons on the vehicle and the person driving the vehicle was the co-accused, further submission that the alleged quantity of charas is less than the commercial quantity, therefore, the rigours of Section 37 of the N.D.P.S. Act, 1985 would not be attracted, the petitioner has otherwise no criminal antecedent and has remained in custody in connection with this case since 17.10.2020, investigation against his is complete but the trial is not likely to commence in near future, in the circumstances, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 8th Sessions Judge-cum-Spl. Judge (NDPS Act), Muzaffarpur in connection with Kanti P.S. Case No.633/2020 (NDPS Case No.98/2020), subject to the condition as laid down under Section 437 (3) Cr.P.C.

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.

(Rajeev Ranjan Prasad, J)

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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'.

