

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31403 of 2021

Arising Out of PS. Case No.-214 Year-2020 Thana- AHYAPUR District- Muzaffarpur

Dilip Sahni S/O Late Tapeswar Sahni R/O Village- Vijay Chhapra, P.S.-
Ahiyapur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha

For the Opposite Party/s : Mr. Binod Kumar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 21-08-2021 Heard learned counsel for the petitioner and learned A.P.P. for
the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

The petitioner seeks bail in connection with Ahiyapur P.S. Case No. 214 of 2020 registered for the offence punishable under Section 290 of the Indian Penal Code, Section 37 (b) (c) of Bihar Prohibition and Excise Act and Sections 20/22 of the N.D.P.S. Act.

As per the prosecution case, allegation against the petitioner is that petitioner along with one co-accused *Mahesh Sahni* had kept illegal smack like substance on the roof of the informant and started fleeing away. While fleeing co-accused *Mahesh Sahni* was caught in drunken stage and handed over to the police by the informant.



It is submitted by learned counsel for the petitioner that petitioner has falsely been implicated in this case and has not committed any offence as alleged in the FIR. He submits that it was the informant who handed over the contraband article to police. He further submits that the weight of the seized contraband article has neither been mentioned in the FIR nor in the seizure list, but the impugned order suggests that it was found to be 12 grams, which even assuming to be smack, is between small and commercial quantity. He further submits that similiary situated co-accused has already been granted bail *vide* order dated 24.08.2020 in Cr. Misc. No. 22264 of 2020 by a Co-ordinate Bench of this Court. The allegation levelled against the petitioner is not specific rather general and omnibus in nature. The petitioner has one criminal antecedent as has been mentioned in para 3 of this bail petition and he is languishing in custody since 16.01.2021.

Learned APP for the State opposed the bail petition.

Considering the facts aforesaid, the above named petitioner is directed to be enlarged on bail, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Ahiyapur P.S. Case No. 214 of 2020 subject to the following conditions:

(1) One of the bailors will be own close relative of the petitioner who will give on affidavit genealogy as to how he is



relative to petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the petitioner is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The petitioner shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The petitioner shall co-operate with the investigation, if not already concluded and make himself available and when so required and in the case of failure, the State shall be at liberty to move for cancellation of bail.

(Anjani Kumar Sharan, J)

GAURAV S./-

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