

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 36551 of 2020

Arising Out of PS Case No.-170 Year-2020 Thana- RAJAPAKAR District- Vaishali

Jagdish Rai, aged about 73 years, Male, Son of Late Ram Prasad Rai,
Resident of Village - Bhalui, PS- Rajapakar, District – Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Rina Sinha, Advocate
For the State	:	Ms. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 28-06-2021

The matter has been heard *via* video conferencing.

2. Heard Ms. Rina Sinha, learned counsel for the petitioner and Ms. Anita Kumari, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State

3. The petitioner apprehends arrest in connection with Rajapakar PS Case No. 170 of 2020 dated 24.07.2020, instituted under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the ‘NDPS Act’).

4. The allegation against the petitioner is that during police checking, he left his motorcycle and started running away and threw a bag on the *veranda* of his house and from the bag, 2.50 gms. *ganja* is said to have been recovered and further, that he used to sell and purchase *ganja*.



5. Learned counsel for the petitioner submitted that he is 73 years old and it is not believable that he would be able to run away from the police. It was further submitted that the person who was running away had thrown the bag on the *veranda* of the house of the petitioner just to save himself and the petitioner has no connection with the same. It was further submitted that at the age of 73, the petitioner having no antecedent of any other criminal case, itself shows the innocence of the petitioner. Learned counsel submitted that even otherwise, when a person is being chased by the police at 3:00 PM i.e., when there is sufficient natural light, had it been the petitioner, he would not have thrown the bag in his own house knowing fully well that it would be connected to him and, thus, would have thrown it somewhere else or even left it on the motorcycle or on the road and further that the motorcycle also does not belong to him. It was submitted that if it is believed that it was the petitioner, who was the person, who riding the motorcycle and had thrown the bag and had run away, it is unbelievable that the police would not be able to run and catch a 73 years old man.

6. Learned APP submitted that the bag containing *ganja* was recovered from the house of the petitioner. However, it was not controverted that the bag was thrown by the person who is



said to have run away after leaving the motorcycle when police were checking the vehicles and the recovery was of 2.50 gms. of *ganja*.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Vaishali at Hajipur in Rajapakar PS Case No. 170 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, and (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or



being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioner, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

9. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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