

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8031 of 2021

Arising Out of PS. Case No.-195 Year-2020 Thana- MUFFASIL District- Aurangabad

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Gautam Kumar Pandey (M) aged about 24 years, Son of Saligram Pandey
Resident of Village - Gulani, P.S.- Guruwa, District - Gaya, At present R/o
Line Hotel near Babhandi, P.S.- Mufassil, District - Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. P.K.Shahi, Sr.Adv.
Mr.Ashok Kumar Singh
For the Opposite Party/s : Mrs.Meena Singh,APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3. 24-06-2021 Heard learned counsel for the parties through video conferencing.

The petitioner seeks bail in Aurangabad (Muffasil)
P.S. Case No. 195 of 2020, registered for the offence under
Sections 8, 15(c), 25, 29 of N.D.P.S. Act.

As per the prosecution case, 3.2 kg of liquid opium
was recovered from *dicky* of the motorcycle, which was being
driven by this petitioner.

It is submitted on behalf of petitioner that the
motorcycle, in question, does not belong to this petitioner and
he was simply driving the motorcycle to purchase some articles
and it was registered in the name of one Sanjay Kumar. It is
further submitted that as per seizure list, 3.2 kg. of liquid form



of opium has been recovered and if reduced to solid form, it would come around 7.60 gm, as stated in paragraph – 18 of bail petition, which is less than commercial quantity, and therefore, the rigors of Section 37 of the N.D.P.S. Act would not be attracted. Petitioner has got clean antecedent and he is in custody since 17.10.2020.

However, learned A.P.P. for the State opposed the bail petition and submitted that it is settled law that *the weight of the contraband would be the weight taken at the time of seizure* and thus, more than commercial quantity of opium has been recovered from the possession of the petitioner.

Considering the rival submissions of the parties, materials available on record and the fact that more than commercial quantity of opium has been recovered from the dicky of the motorcycle, which was driven by this petitioner, the bail petition of petitioner is rejected.

(Prabhat Kumar Singh, J.)

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