

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.10449 of 2021**

Arising Out of PS. Case No.-321 Year-2020 Thana- GAIGHAT District- Muzaffarpur

SUDARSHAN KUMAR SON OF SRI SIKANDRA SINGH @ SIKANDAR
SINGH @ SIKINDAR SINGH VILLAGE PIROUNCHHA, P.S.- GAIGHAT
(BENIBAD O.P.), DISTRICT- MUZAFFARPUR

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Ms.Vaishnavi Singh, Adv.

For the Opposite Party/s : Mr.Md.Fahimuddin, APP

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

2 04-05-2021 Learned counsel for the petitioner undertakes to

remove all the defects pointed out by the Stamp Reporter within

four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner in the present case is seeking regular
bail in connection with Gaighat P.S. Case No. 321 of 2020
registered for the offences punishable under Sections 414/34 of
the Indian Penal Code and Sections 20/22 of the Narcotic Drugs
& Psychotropic Substances Act (in short 'N.D.P.S. Act').

Learned counsel for the petitioner submits that as per
the prosecution story when the S.I. of police intercepted the
accused persons, they tried to flee away on two motorcycles. It
is alleged that on chase some of the boys were apprehended



while some one managed to flee on the motorcycle which was not having any registration number. It is then alleged that the apprehended accused disclosed their names and they informed that co-accused who had fled away was Ram Bharos Kumar and he was indulging in buying and selling of Charas. They disclosed about one packet which was there with them containing 500 gms of Charas in a white bag which was hung with the motorcycle.

Learned counsel submits that in the present case the quantity of Charas is much below the commercial quantity. It is her submission that in the present case there is no compliance of Section 42 of the N.D.P.S. Act and even search procedures have not been followed. No sample was created on the spot and the seized Charas has not been sent to the Forensic Science Laboratory for examination till date.

It is her submission that since the quantity is much below the commercial quantity, the rigours of Section 37 of the N.D.P.S. Act would not be attracted.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, considering the facts and circumstances of the case wherein the quantity of Charas which has been seized from the motorcycle is much below the



commercial quantity, the petitioner has remained in jail in connection with this case since 07.08.2020, investigation against him is complete and prior to the present case he had no criminal antecedent, there being no submission on behalf of the State that his release at this stage is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs release of the petitioner above named on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge (NDPS Act), Muzaffarpur, in connection with Gaighat P.S. Case No.321/2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) That such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) That such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or



tamper with the evidence.

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.

The application stands allowed.

(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'

