

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6606 of 2022

Arising Out of PS. Case No.-200 Year-2021 Thana- HATHAURI District- Muzaffarpur

Sunil Rai @ Sunil Kumar, Son Of Jalim Rai, R/O Village- Chakki Rampur,
Korlahiya, P.S.- Mahindwara, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate Mrs. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 15-11-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with Hathauri P.S. Case No. 200 of 2021 registered
for the alleged offences under Sections 20 and 22 of the NDPS
Act and Sections 25(1-b)a, 26 and 35 of the Arms Act.

As per the prosecution case, police received secret
information about the petitioner and other co-accused carrying
ganja and they reached at the spot and apprehended the
petitioner and co-accused after chase. From the possession of
the co-accused a loaded country made pistol with one live



cartridge was recovered and from possession of this petitioner 5kg of *ganja* was seized.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case and nothing incriminating has been recovered from his conscious possession. It is clear from the FIR that the co-accused persons started fleeing away on seeing the police and it is not believable that a person carrying *ganja*, did not throw his bag when he was about to be apprehended. There is complete violation of Section 42, 50, 52, 53 of the NDPS Act and no statutory compliance has been made. The seizure list witnesses are of officials and there is no independent witnesses to the seizure list. On the facts of the case, the learned counsel submits that if the prosecution case is to be believed, the recovery is only of 5kg of *ganja* which is much less than the commercial quantity under the notification issued by the Central Government and for possession of this quantity, the petitioner is in custody for more than a year. The accused Hira Mandal, who was apprehended with the petitioner has been granted bail vide order dated 21.06.2022 passed in Cr. Misc. No. 5100 of 2022 by a Co-ordinate Bench. The petitioner is in custody since 24.08.2021 and charge-sheet has been submitted.



Learned APP opposes the submission made on behalf of the petitioner submitting that the petitioner was caught hold red handed with 5kg of *ganja*.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the recovery of 5 kg of *ganja* from this petitioner and the case of the petitioner being not on similar footing with the co-accused, who was not apprehended with any narcotic drugs or psychotropic substance, I am not inclined to enlarge the petitioner on bail.

Hence, the prayer for bail is rejected.

However, the trial court is directed to expedite the trial and conclude the same preferably within a period of one year.

(Arun Kumar Jha, J)

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