

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19724 of 2021

Arising Out of PS. Case No.-326 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

HEMANT KUMAR YADAV S/o Nand Kishor Ray R/o village- Khalikpur,
P.S.- Ahiyapur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Pankaj Kumar Singh, Adv
For the Opposite Party/s : Mr.Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 10-01-2022 Heard learned counsel for the petitioner and the
learned A.P.P. for the State in virtual Court proceeding.

The petitioner seeks bail in connection with Bochaha
P.S.Case No.326 of 2020 registered for the offence under
Sections 20/22 of N.D.P.S. Act and Section 25(1-b)a,26,35 of
the Arms Act.

The prosecution case, in short, is that the informant,
S.H.O. has alleged in his self statement that he got secret
information that the petitioner and four others are in Alto Car
alongwith illegal arms, Ganja, Charas etc standing at Muradpur
Bridge. To verify the fact, informant alongwith police party
reached there where five persons were seen fleeing away after
getting down from the Alto Car but all of them were
apprehended. The apprehended persons disclosed the names of



Raja Kumar, Chhotu Sahni. Hemant Kumar Yadav, Lallan Kumar and Phulo Sahni and from possession of Raja Kumar, one loaded country made pistol, from possession of Chhotu Sahi, one loaded country made pistol and from possession of Hemant Kumar Yadav, one loaded country made pistol were recovered. One silver coloured Alto Car in which 10 Kg. 200 Gms of substance like Ganja and 1 Kg of substance like Charas were kept was also recovered and accordingly, seizure list was prepared.

Learned counsel appearing for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. He further submits that it appears from the FIR itself that only one country made pistol and one live cartridge were recovered from possession of the petitioner and the petitioner is in custody since 04.12.2020.

Learned A.P.P. for the State has vehemently opposed the prayer for bail of the petitioner and states that the recovery of 10 Kg 200 Gms of substance like Ganja and 01 Kg of the Charas. The recovery of 01 Kg of the Charas is under the commercial quantity.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed



Narcotic Drugs and Psychotropic Substances Act, 1985 which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar offence. This issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors Vs. Rajesh & Ors**, reported in **2020(12) SCC 122**.

The recovery of 10 Kg 200 Gms substance like Ganja and 01 Kg of Charas from the Alto Car of which the petitioner was arrested would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Considering the nature of allegation against the petitioner, I am not inclined to enlarge the petitioner on bail in connection with Bochaha P.S.Case No.326 of 2020 pending in the court of learned Sessions Judge-cum-Special Judge, Muzaffarpur. Prayer is refused.

Learned Trial Court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

Nitesh/-

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