

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14098 of 2022

Arising Out of PS. Case No.-381 Year-2021 Thana- SIKARPUR District- West Champaran

Rahmat Ali, Son of Late Shaukat Ali, Resident of Village- Prakash Nagar
Ward No.- 12, P.S.- Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 12-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Braj Kishore Mishra, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Shikarpur P.S. Case No. 381 of 2021 registered for the offences punishable under Sections 8, 20(b)(ii)(B) of the NDPS Act.

As per prosecution case, it is alleged that on a secret information, the police raided the house of the petitioner and on search being made 3.800 kg of Ganja like narcotic substance was recovered.

It is submitted by the learned counsel appearing on



behalf of the petitioner that from the F.I.R. it is evident that the alleged recovery has been made from the house of the petitioner, however, the same is a joint family house where several persons reside and as such the petitioner cannot be held to be solely responsible. It is next submitted that the alleged recovered Ganja is though higher than the small quantity but not commercial quantity and as such the rigour prescribed under Section 37 of the N.D.P.S. Act would not be applicable in the present case. It is also submitted that there is no compliance of the mandatory provisions of Sections 43 and 50 of the N.D.P.S. Act and moreover the charge-sheet has been submitted without obtaining the F.S.L. report. It is lastly submitted that the petitioner is in custody since 03.08.2021 having fair antecedent.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that recovery has been made from the house of the petitioner and he was apprehended at the spot.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the recovery has been made from the joint family house and moreover the charge-sheet has been submitted without obtaining the FSL report and this petitioner is in custody since 03.08.2021



having clean antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, -cum- Special Judge (NDPS Act) Bettiah, West Champaran in connection with Shikarpur P.S. Case No. 381 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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