

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28041 of 2021

Arising Out of PS. Case No.-74 Year-2020 Thana- GAIGHAT District- Muzaffarpur

SIKINDAR RAI Son of Late Ram Ekbal Rai Resident of Village - Bharat-Nagar, P.S. - Gaighat, Benibad, District - Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhusudan Kumar

For the Opposite Party/s : Mr.Umesh Lal Verma, APP.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 29-01-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State in virtual court proceeding.

Let the defects, as pointed out by the office, be removed within four weeks of start of normal functioning of the physical court.

Petitioner seeks bail in connection with Gaighat P.S. Case No. 74 of 2020 registered for the offences punishable under Sections 20(B), 22(B), 27(A) of the NDPS Act.

As per prosecution case, the informant got information that petitioner is selling ganja at his door. Having received the aforesaid information, informant along with other police officials reached there and saw that one truck was standing at the door of the petitioner from which police recovered 430 kg.



ganja. It is also alleged that seeing the police party one person started fleeing from his Santro car but he was apprehended and from the said car 50 kg. ganja was recovered. It is also alleged that 10 kg. ganja was also recovered from a motorcycle which was standing by the side of truck in question.

Learned counsel for the petitioner submits that petitioner has clean antecedent and has committed no offence and he has falsely been implicated in the present case. It is further submitted that Section 50 of the NDPS Act has not been followed in the present case. He further submits that nothing has been recovered from possession of the petitioner and the petitioner is in custody since 20.09.2020.

The learned Additional Public Prosecutor vehemently opposed the prayer of bail submitting that co-accused Sange Sherpa has stated that petitioner is involved in the business of ganja and altogether 490 kg. ganja has been recovered.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under the NDPS Act, 1985. Section 37 of the said Act says that before grant of bail, the Court must have reason to believe that the petitioner has not committed the offence and in the event of release, he would not commit similar offence in future.



The issue was considered by the Hon'ble Supreme Court in the case of State of Kerala and Ors. Vs. Rajesh and Ors. reported in (2020) 12 SCC, 122.

The recovery of huge quantity of ganja would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that petitioner would not commit such offence in the event of release.

Hence, I am not inclined to enlarge the petitioner on bail in connection with Gaighat P.S. Case No. 74 of 2020 and accordingly, the same is rejected.

(Rajesh Kumar Verma, J)

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