

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32471 of 2021

Arising Out of PS. Case No.-255 Year-2020 Thana- SARAI District- Vaishali

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Pramod Kumar, S/O Ganesh Rai, R/o village- Birpur, P.S.- Sudawanpur,
District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

7 11-02-2022 This Court vide order dated 07.02.2022 directed this matter to be listed on “11.02.2022” but inadvertently, the date of listing has wrongly been mentioned as “11.03.2022”.

Accordingly, the order dated 07.02.2022 be modified only to the extend that the date of listing be read as “11.02.2022” instead of “11.03.2022”

The applicant/accused in Crime No. 255 of 2020 registered with Sarai Police Station for the offences punishable under Sections 20, 22, 23 and 24 of the N.D.P.S. Act, by this application is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused. He argued that according to the prosecution case, four persons including the applicant were traveling in a



Car. That Car was found to be containing four packets in which Ganja weighing 12.024 Kg was found. It is argued that this is not a commercial quantity and there is nothing on record to show that the applicant was in conscious possession of the contraband. It further argued that rigors of Section 37 of the NDPS is not applicable to the case in hand because the quantity so seized is not seized.

The learned Additional Public Prosecutor opposed the application by contending that the offence is serious and indisputably the applicant was found to be one of the passenger of the said car.

I have considered the submissions so advanced and also perused the materials placed before me.

It is case of the prosecution that during course of routine checking, a four-wheeler vehicle came to be inspected. Four persons including the present applicant were seen to be traveling in that car. That car was also containing a bag. When that bag was inspected, it was found to be containing four packets. Those packets were containing the contraband Ganja and upon weighing the same was found to be 12.024 KG. The same was seized and the applicant along with co-accused came to be apprehended. So far as the question of conscious



possession is concerned, there cannot be any tangible evidence to prove this fact. It has to be assessed by the surrounding circumstances. The circumstances are to the effect that the Car was containing four passengers in which the applicant was one of them. It was not a Car used for hire and reward. All four persons were traveling together. Hence at the pretrial stage it cannot be said that the applicant was not having conscious possession over the contraband.

Though the seized material is not that of commercial quantity but that is not the sole criteria for releasing the appellant on bail mechanically. Ultimately the seized quantity is weighing 12.024 KG.

Considering the nature offence, no case for grant of bail to the applicant/accused is made out. Accordingly, the application stands rejected.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

Bhardwaj/-

(A. M. Badar, J)

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