

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32732 of 2021

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

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GAGAN KUMAR Son of Jai Prakash Ray Resident of Village- Sri Rampur,
Police Station- Raghopur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar Sinha

For the Opposite Party/s : Mr.Ashok Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

11 06-09-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Sarai P.S.
Case No. 255/2020 registered for the offences punishable under
Sections 20, 22, 23, 24 of the N.D.P.S. Act.

As per prosecution case, there is alleged recovery of
12.024 kg. Ganja from car in question and petitioner and others
were sitting in the car and apprehended on the spot.

Learned counsel for the petitioner submits that
petitioner is innocent and has falsely been implicated in this
case. Nothing has been recovered from the conscious possession
of the petitioner. The petitioner is languishing in custody since
05.11.2020 and bears no criminal antecedent. The petitioner is
neither owner nor driver of the said car in question. Learned



counsel for the petitioner further submit that seizure list has not been prepared as per law. Chaukidar Ashok Thakur and Chaukidar Rajiv Kumar, who were members of the raiding party, were made witnesses of seizure list which violates the mandatory provisions of Section 100 Cr.P.C. The petitioner has been apprehended on suspicion while he was crossing the road. Moreover, 12.024 kg Ganja does not come under the commercial quantity and hence Section 37 of the N.D.P.S. Act is not bar for bail. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and keeping in view clean antecedent of petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned



Sessions Judge, Vaishali at Hajipur in connection with Sarai P.S.

Case No. 255/2020, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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