

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21921 of 2022

Arising Out of PS. Case No.-785 Year-2021 Thana- SARAIYA District- Muzaffarpur

Abhimanyu Kumar Singh @ Abhimanyu Kumar @ Monu, Son of Kapil Singh, Resident of Village- Maripur, P.S. - Kazi Mohammadpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramakant Sharma, Sr. Advocate
Mr. Rajesh Kumar, Advocate
For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-08-2022 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. Ramakant Sharma, learned senior counsel appearing on behalf of the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Saraiya P.S. Case No. 785 of 2021 registered for the offences under Sections 272, 273/34 of the Indian Penal Code, Section 30(a) of Bihar Prohibition and Excise Amendment Act, 2018, Sections 20/22 of the N.D.P.S. Act and Sections 25(1-b)/26/35 of the Arms Act.

As per the prosecution case, it is alleged that in course



of vehicle checking the police personnel intercepted one I-20 car and two persons were apprehended, who were sitting in the car. It is further alleged that on search one loaded country made pistol has been recovered from the conscious possession of the petitioner. It is also alleged that 2 Kg Ganja kept in a plastic polythene along with 2.700 liters of foreign liquor was also recovered from the car.

Learned senior counsel appearing on behalf of the petitioner submits that so far the recovery is concerned, the same has been recovered from the car, which does not belong to the petitioner. However, only in order to implicate the petitioner, because of his past criminal antecedent, the recovery has been shown from his possession. It is next submitted that so far the 2 Kg Ganja like substance is concerned, admittedly the same is more than smaller quantity, but less than commercial quantity and as such the rigors prescribed under Section 37 of the N.D.P.S. Act would not be applicable in this case, apart from the fact that there is no compliance of Sections 43 and 50 of the N.D.P.S. Act as well as Section 100(4) of the Cr.P.C.. It is also submitted that there is other discrepancies in preparation of the seizure list and the charge-sheet has been submitted without obtaining the FSL report. It is lastly submitted that this



petitioner is in custody since 25.11.2021.

On the other hand, learned counsel for the State vehemently oppose the bail application and submits that the petitioner has multiple criminal antecedent, inasmuch as he has been found involved in six other cases and further he was arrested at the spot by the police. In response to the aforesaid submissions, learned senior counsel for the petitioner submits that the petitioner has been granted bail in all the other criminal cases, except one.

Having regard to the submissions made on behalf of the parties and considering the period of custody as also the fact that the alleged recovered Ganja is below the commercial quantity and other recovery has been made from the car, which does not belong to the petitioner, 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 Exclusive Special Judge (Excise Court No. II), Muzaffarpur in connection with Saraiya P.S. Case No. 785 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the



trial.

(ii) He will remain physically 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.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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