

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27522 of 2022

Arising Out of PS. Case No.-146 Year-2019 Thana- INDUSTRIAL District- Bhagalpur

SUBASH SAH @ SUBAHS PRASAD SAH Son of Late Guru Dayal Sah
Resident of Village - Aliganj, P.S. - Mozahidpur, District - Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad

For the Opposite Party/s : Mr.Nand Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 27-07-2022 The present petition is by way of 2nd attempt at the behest of the petitioner for grant of regular bail in connection with N.D.P.S. Case No. 27 of 2019 (Corresponding to Industrial P.S. Case No. 146 of 2019) for the offence registered under Section 20(b)(11)(C) and Section 22 of N.D.P.S. Act inasmuch as the earlier prayer of the petitioner for grant of regular bail was rejected by this Court vide order dated 25.08.2020 passed in Cr. Misc. No. 18994 of 2020.

The case of the prosecution in brief is that upon information received about narcotics substance being ferried as also being tried to be smuggled through the place in question, the police party had reached at the alleged place of occurrence and while they were conducting search of the vehicles, two vehicles are stated to have stopped at the flyover, upon having seen the police party, whereafter some persons had come out of



the same, however, when they were trying to flee away, some of them including the petitioner herein were arrested from the spot while some of the accused persons managed to flee away. Thereafter, search was conducted and 60 Kgs. Ganja was recovered from a Maruti Suzuki SX4 car.

The learned counsel for the petitioner has submitted that the petitioner is languishing in custody since 31.10.2019 and there is no progress in the ongoing trial. The learned counsel for the petitioner has also referred to an order dated 10.11.2020 passed in Cr. Misc. No. 29709 of 2020 whereby and where-under a co-accused person has been granted bail by a co-ordinate Bench of this Court.

I have heard the learned counsel for the parties and perused the materials on record. First of all as far as the aforesaid order dated 10.11.2020 passed in Cr. Misc. No. 29709 of 2020 is concerned, the case of the petitioner of the said case is entirely distinguishable from the present case inasmuch as the petitioner of that case is alleged to be the driver of a Scorpio vehicle from which no contraband substance was recovered, hence he was granted bail, however, in the present case 60 Kgs. Ganja has been recovered from a Maruti Suzuki SX4 car and the learned counsel for the petitioner has failed to show any



material on record to suggest that the petitioner was not traveling in the car from which the aforesaid narcotic substance has been recovered. Moreover, it appears that the earlier order passed by this Court on 25.08.2020, rejecting the prayer of the petitioner for grant of regular bail, has not been brought to the notice to the co-ordinate Bench, which has passed the aforesaid order dated 10.11.2020. Now coming back to present case, this Court finds that the petitioner was caught red handed from the spot and 60 Kgs. Ganja was recovered, after search was made of the vehicle in question and since the quantity of ganja seized is much more than the commercial quantity defined in the Schedule to the Narcotic Drugs & Psychotropic Substance Act, 1985, section 37 thereof shall stand in the way of the petitioner as far as his prayer for grant of bail is concerned. Lastly, this Court finds that there is no change in circumstance so as to warrant reconsideration of the prayer of the petitioner for grant of bail, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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