

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37267 of 2021

Arising Out of PS. Case No.-260 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

Shwetank Kumar S/O Gudakesh Prasad Singh R/o Village-Dhanaur, PS-Katra, District-Muzaffarpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajendra Narayan, Sr. Advocate

For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 10-02-2022 Heard learned senior counsel for the petitioner and Shri Chandra Bhushan Prasad learned A.P.P. for the State through virtual court proceedings.

The petitioner seeks bail in connection with Bochahan P.S. Case No. 260 of 2020 instituted for the offences under Sections 25(1-b)a, 26 and 35 of the Arms Act read with Sections 20 and 22 of the N.D.P.S. Act.

Learned senior counsel for the petitioner submits that the petitioner is in custody since 27.09.2020, charge-sheet has been submitted in the case and charges have been framed.

Learned senior counsel for the petitioner submits that allegation is of recovery of 550 grams of *charas* and a loaded country-made revolver from the petitioner. Learned senior counsel had initially submitted that the petitioner has been falsely implicated in a case under N.D.P.S. Act in absence of any F.S.L.



report, accordingly by order dated 03.01.2022, the Senior Superintendent of Police, Muzaffarpur was directed to file a counter affidavit. The counter affidavit in compliance of the order dated 03.01.2022 has been filed and it is on record, based on averments made in the counter affidavit, the learned senior counsel submits that from perusal of paragraph '7' of the counter affidavit it would manifest that it clearly records that the seized substance *charas* 550 grams was sent to the F.S.L. Gannipur, Muzaffarpur for chemical examination on 19.10.2020. Learned senior counsel thereafter draws the attention of the Court to the F.S.L. report which is annexed with the counter affidavit as Annexure 'A' series and from perusal of the same it manifests that only 100 grams solid dark brown solid substance contained in a plastic jar was sent to the F.S.L. Further, the learned senior counsel also submits that the F.S.L. report clearly records that the parcel in which the alleged substance was sent has not been described i.e., whether it was sealed or not. Thus, it is submitted that when the counter affidavit records that the *charas* weighing 550 grams was sent to the F.S.L. then how come only 100 grams was received by the F.S.L. This in itself shows that the authorities are making false statement in the counter affidavit.

Learned senior counsel for the petitioner further submits that the alleged substance was sent to the F.S.L.,



Muzaffarpur on 19.10.2020 and the report has been received on 19.01.2022 i.e., after more than 14 months of sending of the alleged substance and as such it cannot be said with certainty that the alleged substance which was sent to the F.S.L. remained in the same condition as it was sent, thus the learned senior counsel disputes the F.S.L. report. Learned senior counsel further submits that the commercial quantity of *charas* is one kg whereas small quantity is 100 grams and the F.S.L. report also records that only 100 grams of the alleged dark solid substance was received on 19.10.2020, this submission has been made with a view to persuade the Court that perhaps the seizure was only 100 grams and the entire 100 grams was sent and later realising that it is a small quantity, the petitioner was roped with the allegation that 550 grams of *charas* was recovered. It is submitted that if 550 grams of *charas* was recovered and the counter affidavit records that the entire 550 grams was sent to the F.S.L. then how come only 100 grams was received by the F.S.L.

Learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner and submits that the F.S.L. report records that the alleged substance was *charas* and further that charges have been framed against the petitioner and petitioner has antecedent of eleven cases and as such if he is granted bail then, the trial would be delayed which is to commence soon as



charges stands framed.

Considering the fact that the petitioner is in custody since 27.09.2020, charges have been framed and that the alleged substance received by the F.S.L. was only 100 grams when the counter affidavit discloses that 550 grams of *charas* was sent that creates an impression that what has been stated in the counter affidavit does not get corroborated with the F.S.L. report and also that the alleged recovery is less than commercial quantity, the petitioner is directed to be released on bail on furnishing bail bond of Rs. 50,000/- (Rupees Fifty Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, Muzaffarpur in connection with Bochahan P.S. Case No. 260 of 2020 with a condition that one of the bailor shall be the father of the petitioner (Gudakesh Prasad Singh) and further in the event, if the petitioner is implicated in a case of similar nature, the court below will forthwith cancel his bail bonds and also if the petitioner does not appear in the trial on two consecutive dates, the court below will be at liberty to cancel his bail bonds.

(Satyavrat Verma, J)

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