

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38866 of 2021

Arising Out of PS. Case No.-849 Year-2020 Thana- AHYAPUR District- Muzaffarpur

MD. SALMAN Son of Md. Kurban Resident of Village - Sikandarpur
Shamshanghat, P.S. - Muzaffarpur Town, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Md. Ataur Rahman, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 04-01-2022 The matter has been taken up through virtual Court proceedings.

Let the defect(s) be removed within two weeks of the complete start of the physical Court in normal course.

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

Petitioner, who is in custody since 10.11.2020, seeks regular bail in connection with Ahiyapur P.S. Case No. 849 of 2020 registered for offences punishable under Sections 399, 402, 401, 414/34 of the Indian Penal Code, Sections 25(1-b)a, 26/35 of the Arms Act and Sections 20/22 of the N.D.P.S. Act.

Case of the prosecution is that petitioner along with other two accused persons were apprehended along with stolen motorcycle, country-made pistol, a live cartridge and 1.2 Kg. of Ganja. It is specific allegation in the FIR that from the



possession of the petitioner one live cartridge was seized.

Learned counsel appearing on behalf of the petitioner submits that petitioner has a clean antecedent and nothing has been recovered from his conscious possession, rather he was a pillion rider to one Apache motorcycle bearing Registration No. BR06 BB 8762 from which 1.400 Kg of Ganja was recovered. The said motorcycle was recovered from the possession of co-accused Dileep Kumar. It is further submitted that petitioner is in custody since 10.11.2020 and no commercial quantity of Ganja was recovered from the possession of the petitioner.

Learned counsel appearing on behalf of the petitioner further submits that similarly situated other co-accused has already been allowed regular bail by this Court vide order dated 13.12.2021 passed in Cr. Misc. No. 28364 of 2021.

Learned A.P.P., however, opposes the prayer for grant of bail to the petitioner. He further submits that petitioner was apprehended along with the other co-accused with the stolen motorcycle and Ganja was kept in the motorcycle along with one live cartridge as such petitioner does not deserve to be released on bail.

Having considered the facts and circumstances of the case, the Court below is directed to confirm the criminal record



of the petitioner and after being satisfied that no case is pending against him, the petitioner be released on bail upon furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned I/C Special Judge, Muzaffarpur in connection with Ahiyapur P.S. Case No. 849 of 2020, subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(iv) The petitioner is directed to mark his attendance to the local police station on every 5th day of the week failing which, the learned Court below shall cancel the bail bond of the petitioner.

(Purnendu Singh, J)

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