

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43495 of 2021**

Arising Out of PS. Case No.-191 Year-2020 Thana- AURAI District- Muzaffarpur

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SUNIL KUMAR MAHTO SON OF RAJENDRA MAHTO Resident of
Village - Sahbajpur, P.S.- Ahiyapur, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Ms.Anjana, Adv.

For the Opposite Party/s : Ms.Nirmala Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-01-2022 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

Heard the learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks regular bail in connection with Aurai PS case no. 191 of 2020 instituted for the offences punishable under Sections 399, 402 of Indian Penal Code, 25(1-b)a/26 of Arms Act and 8, 20, 22, 25, 29 of N.D.P.S. Act, 1985.

The allegation is regarding the petitioner having been apprehended by the police and upon search, one countrymade pistol, two live cartridges and 520 gms. of *charas*



were recovered from the person of the petitioner.

The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case and is languishing in custody since 18.09.2020. The learned counsel for the petitioner has further submitted that only after the petitioner was made accused in the present case, he has been remanded in two other cases. It is next submitted that the quantity of *charas* recovered from the person of the petitioner is much less than the commercial quantity specified in the Schedule notified under the provisions of the N.D.P.S. Act, 1985, hence the bar under Section 37 of the N.D.P.S. Act, 1985 shall not be an impediment for this Court to grant bail to the petitioner herein.

Per contra, the learned A.P.P. for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record as also considering the period of incarceration of the petitioner herein, apart from the fact that the quantity of *charas* recovered from the person of the petitioner is much less than the commercial quantity specified in the Schedule notified under the



provisions of the N.D.P.S. Act, 1985, I deem it fit and proper to admit the petitioner to the privilege of bail.

Accordingly, the abovenamed petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Sessions Judge, Muzaffarpur in connection with Aurai PS case no. 191 of 2020.

(Mohit Kumar Shah, J)

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