

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35812 of 2022

Arising Out of PS. Case No.-91 Year-2022 Thana- KATRA District- Muzaffarpur

=====

UTTAM RAI SON OF PRAGAS RAY R/O VILLAGE- ANAGOA, H,
JAJUAR, P.S.- KATRA, DISTRICT- MUZAFFARPUR-433360

... .. Petitioner/s

Versus

1. THE UNION OF INDIA THROUGH THE SECRETARY, MINISTRY OF HOME, NARCOTIC DRUGS CONTROL BUREAU, NEW DELHI NEW DELHI
2. THE STATE OF BIHAR THROUGH THE DEPTT. OF NARCOTIC DRUGS CONTROL BUREAU, PATNA BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Subodh Kumar, Advocate.

For the Opposite Party/s : Mr. Mithlesh Kumar Khare. APP.

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 26-09-2022 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. Prabhat Kumar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Katra P.S. Case No. 91 of 2022 for the offences punishable under Sections 399 and 402 of the Indian Penal Code, Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances, Act.

The police on a secret information with regard to



assemblage of miscreants, apprehended three persons including the petitioner and on search one loaded country made pistol and three live cartridges were recovered from the possession of the petitioner, further on disclosure made by the petitioner, a raid was conducted in the house of the petitioner and from where 1250 gm., of Ganja was recovered.

It is submitted by the learned counsel appearing on behalf of the petitioner that so far as the alleged recovery of Ganja is concerned, from the seizure list, it is evident that the same has been recovered from brick constructed asbestos house, which is in a joint family possession and the petitioner cannot be made responsible for the same. He further submitted that the looted recovered contraband substance is below the commercial quantity and as such rigor provided under Section 37 of the NDPS Act, would not be applicable in the present case and, moreover, police has submitted charge-sheet, without obtaining the FSL report, which smack mala fide on the part of the Investigating Officer. He also drawn the attention of this court towards the seizure list, wherein the police case has been mentioned and on the basis of the aforesaid fact, he submitted that admittedly, it appears that seizure list has not been made on the place of occurrence, rather, the same has been prepared at



the police station and thereafter, the copy of which has been handed over to the petitioner. He also submitted that only because of his past criminal antecedent, his name has been implicated in this case, in as much as he has found involved in nine other criminal cases, besides the present case, however, he is on bail in all cases. He last submitted that now the petitioner is in custody since 15.03.2022 and, moreover, investigation of the crime is completed and the charge-sheet has been submitted.

On the other hand learned APP for the State opposed the bail application.

Regard being had to the submissions made on behalf of the parties and considering the fact that the investigation of the crime is already complete and the charge-sheet has been submitted, apart from the infirmities in preparation of the seizure list and the quantity of the Ganja, which is recovered from possession of the joint family house, 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 Sessions Judge-cum-Special Judge, Muzaffarpur, in connection with Katra P.S. Case No. 91 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with



further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain 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)

manoj/-

U		T	
---	--	---	--

