

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37443 of 2022

Arising Out of PS. Case No.-84 Year-2022 Thana- KANHAULI District- Sitamarhi

Sunil Kumar Yadav, Son of Ram Gayan Rai, R/o Village- Dhangadha, P.S.-
Barhathwa, District- Sarlahi (Nepal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Surendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-08-2022 The present matter has been listed, out of turn hearing, on the urgent motion slip filed by the learned counsel for the petitioner, on the instruction of his client that the mother of the petitioner has died on 05.08.2022 and this petitioner happens to be the only son has to make all the rituals.

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. Sanjay Kumar, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kanhauli P.S. Case No.84 of 2022 registered for the offences punishable under Sections 414/34 of the Indian Penal Code, Section 21(b) of the N.D.P.S. Act and Section 26 of



the Arms Act.

As per prosecution case, it is alleged that the SSB personnel, on a secret information, seized one car as well as one motorcycle and the petitioner and some other persons were seen near the vehicle, who were talking to each other, apprehended by the SSB personnel. It is further alleged that on search, one cartridge of 7.65 KF along with Rs. 49,200/- Indian currency and Rs.22,800/- Nepali currency were recovered. It is further alleged that further two bags of codeine phosphate syrup, containing 24.9 litres, was also recovered from the vehicle.

It is submitted by the learned counsel appearing on behalf of the petitioner that the petitioner has neither any concern with the alleged seized vehicle nor with the recovered codeine phosphate syrup. It is further submitted that even as per the F.I.R., it is evident that the petitioner was not arrested from the vehicle, rather he was apprehended nearby the vehicle while he was talking to someone. It is further submitted that the alleged recovered codeine phosphate syrup is much below than commercial quantity and, as such, the rigours as provided under Section 37 of the N.D.P.S. Act would not be applicable and moreover the investigation of the crime is already completed and the charge-sheet has been submitted. It is next submitted



that since the petitioner is resident of Nepal, he is ready to give undertaking that one of the bailors shall be local residents, apart from the fact that he will remain physically present on each and every date and his absence for two consecutive dates in the case would lead to cancellation of his bail bonds. The petitioner is in custody since 18.05.2022 having fair antecedent.

On the other hand learned APP for the State vehemently opposes the bail application.

Having regard to the submissions made on behalf of the parties and considering the fact that the petitioner was neither arrested from the vehicle nor from the place where the recovery has been made and so far the quantity of codeine phosphate is concerned, the same is below the commercial quantity and moreover the petitioner is in custody since 18.05.2022 having fair antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, NDPS Act, Sitamarhi in connection with Kanhauli P.S. Case No. 84 of 2022, subject to the condition that one of the bailors will be the local residents with further conditions which are as follows:-



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

(ii) He will remain physically 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.

(Harish Kumar, J)

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