

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42344 of 2022

Arising Out of PS. Case No.-327 Year-2021 Thana- JAKKANPUR District- Patna

Subodh Kumar Upadhyay Son Of Ravindra Sharan Upadhyay Resident Of
Sadisopur, P.S.- Bihta, District - Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Md. Mushtaque Alam, APP

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

2 14-10-2022 The applicant is accused in Crime No. 327 of 2021 registered with Jakkanpur Police Station, corresponding to Special Case No.73 of 2021, for the offences punishable under Sections 399/401/414 of the Indian Penal Code, Section 20(b) (ii)(A)(B) of the N.D.P.S. Act as well as Sections 25(1-b)a/26/35 of the Arms Act. By this application he is seeking his release on bail during pendency of the trial.

The earlier bail application of the applicant was withdrawn on 16.02.2022.

Heard the learned counsel appearing for the applicant/accused. He submits that no contraband was recovered from the applicant and co-accused, namely, Anup Kumar with similar accusation is already directed to be released on bail by the coordinate Bench of this Court vide order dated 18.05.2022 in Cr. Misc. No.71855 of 2021.



Hence, according to the learned counsel for the applicant on principle of parity the present applicant is also entitled to be released on bail.

The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious and Ganja weighing more than 2 Kgs has been seized by police from the co-accused who were present at the time of incident.

I have considered the submissions so advanced and also perused the materials placed on record.

It is case of the prosecution that on the basis of secret information, First Informant- Police Officer Mukesh Kumar Verma has raided the spot of the incident which was on the road near Clinic of Dr. Anita Singh. He found total five persons on the spot of the incident. They were apprehended and their personal search was conducted. From personal search of co-accused Arvind Kumar as well as co-accused Chunkey @ Avinash, Ganja allegedly weighing 1100 Gms and 1200 Gms apart from fire-arms came to be seized. However, so far as the present applicant is concerned, according to the prosecution case, three live bullets came to be seized from his possession. Co-accused Anup Kumar was stated to be



possessing three live bullets.

Thus, case against the applicant is at par with co-accused Anup Kumar. A coordinate Bench of this Court vide order dated 18.05.2022 has been pleased to direct release of co-accused Anup Kumar on bail during pendency of the trial. Hence, there is no other alternative but to allow the bail application of the present applicant on the principle of parity and, therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 327 of 2021 registered with Jakkanpur Police Station, corresponding to Special Case No.73 of 2021, be released on bail on executing P.R. bond of Rs.25000/- (Rupees Twenty-five Thousand) on furnishing two sureties of the like amount each to the satisfaction of the Trial Court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact



the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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