

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52356 of 2021**

Arising Out of PS. Case No.-556 Year-2021 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

=====

CHAITAVYA RISHI SON OF SRI RAJEEV RANJAN SHAHI Resident of
Village- New Ariya Sikandarpur, P.s.- Town, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Sr. Adv.
Mr. Shivam, Advocate
For the Opposite Party/s : Mr. Suman Kumari Singh, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 04-04-2022 Heard learned counsel for the parties.

The petitioner is in judicial custody in connection with Nagar P.S. Case No. 556 of 2021 registered under Section 30 (a) of the Bihar Prohibition and Excise Act and Sections 8 (c) and 21(b) of the Narcotic Drugs and Psychotropic Substances Act.

As per the prosecution case, the police party was on patrolling duty and at 5:00 a.m. in the morning, they received information that one Amit Kumar @ Kallu and the petitioner herein are going to deliver liquor to the house of Sonelal Sahani. They proceeded towards the spot and found motorcycles with two persons sitting approaching them. Upon instruction to stop the vehicle, they tried to escape, lost balance and were



apprehended. As no eye witness came forward to become search witness, it was done in the presence of the police whereafter 3.750 contraband liquor and 20 packets of smack altogether weighing 16.900 gram have been recovered from them. This led to their arrest and the lodging of the First Information Report in question.

Learned Sr. Counsel for the petitioner submits that no independent witnesses is there to prove the same. Secondly, they have not stated that how the contraband liquor recovered from them. He further submits that entire process of NDPS Act with regard to search, seizure and sampling was completely violated in this case. By way of supplementary affidavit, it has further been brought on record that the petitioner's father is suffering from heart disease and he being the only son, in his absence his father is not getting the proper treatment and he is in jail since 25th of July, 2021. Learned Senior Counsel lastly submits that one of the co-accused Amit Kumar @ Kallu, who was also apprehended along with the petitioner herein, has since been released on bail vide Cr. Misc. No. 51473 of 2021 by a bench of this Court on 21st of March 2020. The order sheet submitted by him is kept on record.

Learned APP, on the other hand, submits that



considering the quantity of contraband, the petitioner does not deserve bail. He has, however after perusing the order conceded that co-accused Amit Kumar @ Kallu, who is similarly situated, has since been released on bail.

In the aforesaid facts and circumstances, I am inclined to grant the privilege of bail. However, in view of the fact that he is already accused in two other cases; one of which is similarly situated, it is necessary to impose strict conditions.

Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of like amount each to the satisfaction of learned Special Judge Excise, Muzaffarpur in connection with Nagar P.S. Case No. 556 of 2021, subject to the following conditions :-

(i) the petitioner shall co-operate in the trial and ensure his presence on each and every date and failure to do so for two consecutive dates without plausible reason will entail process for cancellation of his bail bonds by the Trial Court;

(ii) one of the bailor should be the family member of the petitioner, who shall submit an affidavit to this effect showing his bonafide;

(iii) he shall appear before the concerned police station every 15 days for next six months.



(iv) he shall desist from committing any criminal offence again failing which the State will take appropriate steps for initiating the process for cancellation of the bail bonds;

With the aforesaid observation, the bail application is allowed.

(Rajiv Roy, J)

Jagdish/-

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

