

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53798 of 2021

Arising Out of PS. Case No.-201 Year-2021 Thana- SONBERSA District- Sitamarhi

Mithilesh Sah, Son of Hari Narayan Sah, Resident of Village- Malangwa,
Ward No.-03, Police Station- Malangwa, District- Sarlahi, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mrs. Smirti Bharti, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 24-08-2022 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 Mrs. Smirti Bharti, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Sonbarsa P.S. Case No.201 of 2021 registered for the offences punishable under Sections 8/20 (b), (ii), (B)/21(a) of the N.D.P.S. Act.

As per the prosecution case, it is alleged that on a confidential information that some miscreants are engaged in carrying and supply of Ganja and Codeine cough syrup rushed to the place of occurrence, however, on noticing the police party, out of four persons, who were carrying buckets and bags,



two of them were managed to flee away and other two persons, including the petitioner, were apprehended. On search total 17.400 Kg of Ganja and 149 bottles of cough syrup were recovered along with some Nepali currency and mobile phone.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R. it is evident that four persons were coming along with the Buckets and bags containing contraband and cough syrup, but surprisingly the F.I.R. has been instituted against only the apprehended persons and not against those persons, who have managed to flee away from the place of occurrence, which makes the entire case suspicious. It is next submitted that the alleged recovered Ganja like substance is admittedly below the commercial quantity and, as such, the rigors provided under Section 37 of the NDPS Act would not come in the way to release the petitioner on bail. It is also submitted that the petitioner is in custody since 14.07.2021, having fair antecedent, and moreover the charge-sheet has been submitted without obtaining FSL report, which also vitiates the investigation. It is lastly submitted that the co-accused person, namely, Saroj Kuamr @ Saroj Kumar Sah, who was also apprehended along with the petitioner, has already been granted bail by the learned co-ordinate Bench of this Court in Cr. Misc.



No. 52602 of 2021 vide order dated 17.05.2022.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the petitioner was apprehended with the contraband and cough syrup containing codeine.

Having regard to the submissions made on behalf of the parties and considering the fact that the alleged recovered Ganja like substance is below the commercial quantity and moreover, the co-accused person, having identical allegation, has already been granted bail by the learned coordinate Bench of this Court and the petitioner is in custody since 14.07.2021 having fair antecedent, 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 Special Judge-I, Sitamarhi in connection with Sonbarsa P.S. Case No. 201 of 2021, 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 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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