

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55143 of 2021**

Arising Out of PS. Case No.-169 Year-2020 Thana- BARURAJ District- Muzaffarpur

Monu Kumar @ Manoj Kumar S/o Shyambabu Giri R/O Village-Manguraha,
P.S.- Baruraj, District-Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad, Advocate.

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 17-05-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Sheo Kumar Prasad, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of regular bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Baruraj P. S. Case No. 169 of 2020 corresponding to N.D.P.S. Case No. 74 of 2020 registered for the offences punishable under Sections 8, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act and Sections 25 (1-b)a, 26 and 35 of the Arms Act.



As per the prosecution case, it is alleged that while the Police personnel were on patrolling duty they intercepted three persons, who were coming on a motorcycle. On search, from the possession of this petitioner 500 gram charas like substance has been recovered.

Learned counsel appearing on behalf of the petitioner submits that though this F.I.R. is said to have been registered on 07.09.2020 and it is alleged that 500 gram charas like substance has been recovered from the possession of this petitioner but the sample of the seized article has been sent to the Forensic Science Laboratory on 19.10.2020 but surprisingly even before obtaining the report, the Police submitted the charge-sheet on 29.11.2020 under Sections 8, 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act as well as Section 25 (1-b)a, 26 and 35 of the Arms Act. It is further alleged that the alleged recovery of the charas like substance is though above the small quantity but quite below the commercial quantity and as such Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted in this case. It is next submitted that there is no compliance of Section 50 of the Narcotic Drugs and Psychotropic Substances Act and moreover, this petitioner is in custody since 08.09.2020.



On the other hand, learned APP for the State vehemently opposes the bail application and submits that the alleged recovery of 500 gram of charas has been made from the possession of this petitioner and moreover, this petitioner is also found involved in two other criminal cases.

Having considered the submissions made on behalf of the parties and taking into account the fact that there is complete defiance of mandatory provisions of Narcotic Drugs and Psychotropic Substances Act in as much as though the recovery has been made on 07.09.2020 but sample has been sent on 19.10.2020 and the charge-sheet has been submitted even before obtaining the F.S.L. report and further the alleged recovery is below the commercial quantity and as such, the rigour of Section 34 of the Narcotic Drugs and Psychotropic Substances Act is not attracted of this case and further this petitioner is in custody since 08.09.2020, let the petitioner, above named, 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 Additional District and Sessions Judge IV, Muzaffarpur in connection with Baruraj P. S. Case No. 169 of 2020 corresponding to N.D.P.S. Case No. 74 of 2020, subject to the condition that one of the



bailors will be the close relative 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.

(Harish Kumar, J)

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