

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55816 of 2021

Arising Out of PS. Case No.-142 Year-2020 Thana- ATHMALGOLA District- Patna

SHANKAR RAI Son of Ramnath Rai Resident of Village- Naya Tola
Sabnima, P.S.- Naya, Athmalgola, District- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Anuj Kumar, Advocate
For the Opposite Party	:	Mr. Anant Kumar 1, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 31-03-2022 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard Mr. Yogesh Chandra Verma, learned senior counsel for the petitioner assisted by Mr. Anuj Kumar, learned Advocate and Mr. Anant Kumar-1, learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Athmalgola P.S. Case No. 142 of 2020 registered for the offences punishable under Sections 22(C), 27(A) of the N.D.P.S. Act. He is in custody since 21.11.2020 having no criminal antecedent as stated in paragraph '3' of the application.

As per the prosecution story, the police personnel got information that the F.I.R. named accused persons are involved



in smuggling of Ganja and they are likely to dispose of a huge quantity of Ganja. On this information the police team together with the Circle Officer of the area raided the house of Sanjay Rai and Manjay Rai, both sons of Kapil Dev Rai. The raiding party surrounded the vehicles standing there in front of the house and in presence of the witnesses they conducted search of the house of Sanjay Rai and Manjay Rai. From the house, 30.460 kilogram Ganja were recovered. It is then alleged that in course of raid again 25.590 kilogram of Ganja was seized from the Bhusa Ghar of Sanjay Rai. Both the persons who were arrested by police disclosed that co-accused Pankaj Rai and Raju Kumar had sent the Ganja through four wheeler and the said vehicle is standing in the field. Police team conducted search of the said vehicle and from the vehicle co-accused Pankaj Rai and Raju Kumar were arrested. From the said vehicle 132 bundles of Ganja were seized.

It is at this stage that the F.I.R. alleges that in course of their confessional statement co-accused Raju Rai and Pankaj Rai disclosed the name of other accused including this petitioner who were allegedly involved in the smuggling. The vehicle belong to co-accused Bhuneshwar Rai and it is alleged that Videsh Rai, son of Ramdeo Rai was involved in the smuggling



of Ganja and he had been sent to jail earlier also.

Learned senior counsel for the petitioner submits that the petitioner has been falsely implicated in this case. No raid was conducted in his house, nothing incriminating has been recovered from his house and he has been made accused only on the basis of the confessional statement of the co-accused who has allegedly disclosed that this petitioner is also involved in the smuggling.

It is submitted that considering that there is no incriminating material against the petitioner save and except that the arrested accused has taken his name, the petitioner was not even present on the spot and the petitioner has got no criminal antecedent as stated in paragraph '3' and has remained in custody for one and half year approximately and the trial has yet not begun, in the nature of the materials he deserves privilege of bail.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner, as according to him the name of the petitioner has transpired in the confessional statement of the co-accused. It is however not controverted that the raid was not conducted in the house of the petitioner and so far as this petitioner is concerned, no narcotic substance has been



recovered from his house and further that he has got no criminal antecedent.

Having regard to the facts and circumstances particularly the materials flowing from the F.I.R. showing that no raid was conducted in the house of the petitioner, he was not present on the spot, it is not the case of the prosecution that the petitioner was seen fleeing away from the place of occurrence and there being no incriminating material against him as also that he has got no criminal antecedent and has remained in custody for one and half year but the trial has yet not begun and it is not likely to be concluded in near future, there being no submission on behalf of the State that release of the petitioner is likely to result in tampering with the evidence or interfering with the course of trial, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge - XXIV, Patna in connection with Athmalgola P.S. Case No. 142 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage



it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

