

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57417 of 2021

Arising Out of PS. Case No.-234 Year-2020 Thana- HATHAURI District- Muzaffarpur

Amit Jha @ Raja Jha, Son Of Krishna Kumar Jha, R/O Village - Narma, P.S.-
Hathauri, District - Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shiva Shankar Sharma, Advocate

For the Opposite Party/s : Mr. Amit Kumar Rakesh, 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. Shiva Shankar Sharma learned counsel for the petitioner and the learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Hathauri P.S. Case No. 234 of 2020 for the offences punishable under Sections 25(1-b)a, 26, 35 of the Arms Act and 20/22 of the NDPS Act.

As per the prosecution case it is alleged that the on 16.10.2020 while the police party was on patrolling duty two persons were intercepted. On search in the presence of two independent witnesses one loaded pistol, two cartridges, one Pulsar motorcycle and one green bag containing ganja approx



10 kg were recovered from possession of this petitioner.

It is submitted on behalf of the learned counsel for the petitioner that from perusal of the seizure list showing the time of preparation of seizure list is at 6.30 and the information to the police station has been shown to be 10 o'clock but surprisingly the seizure list contains the Hathauri P.S. Case No. 234 of 2020 which shows that the seizure list has been prepared at the police station or some other place. It is further submitted that the alleged ganja like substance has been recovered from possession of the petitioner on 16.10.2020 but the same has not been sent to the forensic science laboratory and surprisingly the charge-sheet has been submitted without obtaining the FSL report. It is next submitted that the alleged recovery is more than small quantity but less than commercial quantity and as such the rigors of Section 37 would not be attracted in the present case. Further there is no compliance of Section 50 of the NDPS Act and moreover this petitioner is in custody since 17.10.2020.

On the other hand the learned APP for the State opposes the bail application and submits that this petitioner was caught red handed by the police while he was having arms and ammunition as well as ganja and as such he does not deserve the privilege of bail. Apart from the fact that he is found involved in



five other criminal cases.

Having considered the submissions made by the parties and taking into consideration the fact that the alleged recovery has been made on 16.10.2020 but even without sending the sample of the ganja like substance to the F.S.L., charge-sheet has been submitted on 13.01.2021 against the petitioner under the NDPS Act and moreover the alleged recovery is below commercial quantity and as such the rigors of Section 37 of the NDPS Act would not be attracted and this petitioner has already remained in custody for about one year and seven months and there are other discrepancies apart from the defiance of the mandatory provisions of the NDPS Act, 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 the learned Sessions Judge-cum Special Judge, Muzaffarpur, in connection with Hathauri P.S. Case No. 234 of 2020 with the following conditions:

(a) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and in case of his absence on two consecutive dates without any cogent reason, his bail bond shall be cancelled by



the Court below.

(b) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(Harish Kumar, J)

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