

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58564 of 2021

Arising Out of PS. Case No.-748 Year-2020 Thana- SARAIYA District- Muzaffarpur

RAJESH @ RAJESH KUMAR @ RAJESH RAM S/o- Chandeshwar Ram
R/o Village- Kamalpura, P.S.- Paroo, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan No.Ii

For the Opposite Party/s : Mr.Md. Matloob Rab

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 03-02-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State in virtual court
proceeding.

Let the defects, as pointed out by the office, be
removed within four weeks of start of normal functioning of the
physical court.

Petitioner seeks bail in connection with D.R.I.
(N.D.P.S.) case No. 119/ 2020 arising out of Saraiya P.S. Case
No. 748/ 2020 registered for the offences punishable under
Sections 414/34 of the IPC, 25(1-B)a, 26, 35 of the Arms Act
and 20/22 of NDPS Act.

As per prosecution case, from possession of petitioner,
one country made pistol, one live cartridge and 13 pudiya of
Smack have been recovered. It is further alleged that from



possession of co-accused Shiv Kumar @ Shiva, one country made pistol, one live cartridge and 9 pudiya of Smack have been recovered.

Learned counsel for the petitioner submits that petitioner has clean antecedent and has committed no offence and he has falsely been implicated in the present case. It is further submitted that petitioner has been arrested by the police merely on the basis of suspicion. It appears from the seizure list that one country made pistol, one live cartridge and 13 pudiya of Smack were recovered from conscious possession of the petitioner. He further submits that as per notification issued under the N.D.P.S. Act, 1985, commercial quantity of Smack has been defined as 250 gram and it appears from the recovery of Smack from possession of the petitioner that recovered quantity of Smack is less than commercial quantity but little more than small quantity. Learned counsel for the petitioner submits that hence, there is no bar for this Court to grant bail to the petitioner, who is languishing in jail custody since 21.11.2020.

The learned Additional Public Prosecutor vehemently opposed the prayer of bail.

Considering the aforesaid facts and circumstances, let



the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned 8th Additional Sessions Judge cum Special Judge (N.D.P.S.), Muzaffarpur in connection with D.R.I. (N.D.P.S.) case No. 119/ 2020 arising out of Saraiya P.S. Case No. 748/ 2020, subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.

3. 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.

(Rajesh Kumar Verma, J)

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