

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62060 of 2021

Arising Out of PS. Case No.-730 Year-2020 Thana- KUDHNI District- Muzaffarpur

AMAN KUMAR Son of Manoj Kumar Singh Resident of Village - Asoi, P.S.-
Bhagwanpur, Distt.- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Virendra Kumar

For the Opposite Party : Mr. Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 06-04-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor appearing on behalf of the State.

This application for grant of regular bail arises out of Kudhni P.S. Case No. 730 of 2020, registered for the offence punishable under Sections 414/34 of the Indian Penal Code, Sections 25(1-B)a, 26/35 of the Arms Act and Sections 8/20/22 of the Narcotics Drugs and Psychotropic Substance Act, 1985.

From the First Information Report, it transpires that on the basis of a secret information, a raid was conducted by the police leading to recovery of 1030 gms of charas. From the petitioner's possession, allegedly, 550 gms. charas was recovered, whereas from the possession of co-accused, Ritik Kumar, 480 gms. of charas was recovered. It is evident from the First Information Report that the three persons were



apprehended together by the police, who were moving in two bikes.

Learned counsel appearing on behalf of the petitioner has made two fold submissions. He has submitted that the quantity, which has been recovered from the petitioner's possession, is less than the commercial quantity and, therefore, Section 37 of the NDPS Act shall have no application for the purpose of consideration of the petitioner's prayer for bail. He has secondly submitted that co-accused Ritik Kumar has been allowed bail by this Court by an order dated 04.01.2022 passed in Cr. Misc. No. 31573 of 2021 considering the fact that the quantity recovered from the petitioner of that case was less than the commercial quantity.

On perusal of the said order of this Court dated 04.01.2022, it appears that the total quantity of recovery of charas in one transaction by the police has not been taken note of.

Normally, this Court would have considered the submissions advanced on behalf of the petitioner keeping in mind that similarly situate person has been allowed regular bail. In the facts and circumstances, noted above, however, in my view, Section 37 of the Act has application as the total quantity



recovered by the police is more than the commercial quantity.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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