

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.65430 of 2021**

Arising Out of PS. Case No.-64 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

Arjun Sahni S/O Late Mahavir Sahni R/O Village- Dharupatti, P.S.- Aouraie,
District- Muzaffarpur, Bihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sumit Shekhar Pandey, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 06-05-2022 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within two weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Akbar Ali, learned APP for the State.

The petitioner in the present case is seeking regular bail in connection with Ahiyapur P.S. Case No. 64 of 2021 registered for the offences punishable under Sections 25(1-b)a, 26 of the Arms Act and Sections 20 and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as ‘the NDPS Act’). He is in custody since 30.01.2021 and has got six criminal antecedents. Two of them are of similar nature.

Learned counsel for the petitioner submits that in this case, though the quantity of charas allegedly recovered from possession of the petitioner is 1 Kg which is a commercial



quantity, the fact remains that the police officer who has searched the person of the petitioner did not follow the procedures prescribed under Section 50 of the NDPS Act. Learned counsel further submits that under the NDPS Act various safeguards have been provided to an accused and those are mandatory in nature.

Learned counsel for the petitioner submits that out of six cases against the petitioner presently he is on bail in two cases and two of his applications are pending before this Court and in one of the cases, the learned Co-ordinate Bench of this Court has observed to consider the prayer for bail after framing of charge.

On the other hand, learned APP for the state has opposed the prayer for bail of the petitioner. It is submitted that the alleged recovered quantity is a commercial quantity, therefore, it would attract Section 37 of the NDPS Act and unless two conditions therein are satisfied by the petitioner, he does not deserve privilege of bail.

Having regard to the submissions noted hereinabove and on noticing that the quantity allegedly seized from possession of the petitioner is a commercial quantity, therefore, the rigors of Section 37 of the NDPS Act gets attracted and one of the conditions contained under Section 37 of the NDPS Act says that if the petitioner is released on bail there is no possibility of his indulging in any offence is also not getting satisfied for the reason that the petitioner is getting



involved in several cases one after another, this Court would take a view that the issues raised by the petitioner may though be considered in course of trial but at this stage, he is unable to come out of rigors of Section 37 of the NDPS Act, hence, his prayer for bail is rejected.

Let the trial court proceed with the trial and all endeavours be made to conclude the trial preferably within a period of 9 months from the date of communication of this order.

The learned trial court shall fix the matter on shorter dates and no unnecessary adjournments shall be granted to either parties and learned Public Prosecutor as well as the Prosecuting Authority shall cooperate with the learned trial court in early conclusion of trial.

If the trial still remains unconcluded within the preferred period for no reason attributable to the petitioner then he will be at liberty to renew his prayer for bail.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

U		T	
---	--	---	--

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'.

