

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68666 of 2021

Arising Out of PS. Case No.-129 Year-2021 Thana- JOGBANI District- Araria

JITENDRA SAH Son of Late Ratan Lal Sah Resident of Village- South Maheshwari, Ward No.18, P.S.- Jogbani, District- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar, Adv.

For the Opposite Party/s : Mr.Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 05-05-2022 Heard.

The petitioner seeks regular bail in connection with Special Case No. 23 of 2021, registered for the offence punishable under sections 20, 21, 22 & 23 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

The allegation is regarding the petitioner and one co-accused person having been arrested at the Indo Nepal Border while travelling in a car. On search being made, as far as the car in question is concerned, no incriminating article was recovered, however, from the possession of the petitioner, two packets containing charas like substance as also from the co-accused person namely Sunil Kumar @ Sunil kr Sah, four packets containing charas like substance, totalling to 1.170 kg of charas was recovered.



The learned counsel for the petitioner has submitted that the petitioner is innocent, has been falsely implicated in the present case, is having a clean antecedent and is languishing in custody since 01.07.2021. The learned counsel for the petitioner has also submitted that as far as the petitioner is concerned, only two packets of charas like substance has been recovered from his possession and the total weight of six packets has been found to be 1.170 kg. of charas, hence the quantity of charas recovered from the possession of the petitioner would definitely be less than 1 kg, which has been defined in the schedule notified under the provisions of the N.D.P.S. Act, 1985 to be small quantity. It is thus submitted that section 37 of the N.D.P.S. Act, 1985 shall not be a bar for the purposes of grant of bail to the petitioner herein. Lastly, it is submitted that as far as the car in question is concerned, no charas has been recovered.

Per contra, the learned APP for the State, has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the parties and taking into account the materials available on record as also considering the fact that admittedly/ apparently the quantity of charas recovered from the possession of the petitioner is less



than 1 kg., which has been defined to be small quantity in the schedule notified under the provisions of the N.D.P.S. Act, 1985, apart from the fact that the petitioner is languishing in custody since about nine months, I deem it fit and proper to admit the petitioner to the privilege of regular bail.

Accordingly, the petitioner, above named, is directed to be released on bail on furnishing bail-bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned court of Special Judge, N.D.P.S. Araria, in connection with Special Case No. 23 of 2021 arising out of Jogbani P.S. Case No. 129 of 2021.

(Mohit Kumar Shah, J)

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