

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69369 of 2021

Arising Out of PS. Case No.-317 Year-2021 Thana- PURNEA SADAR District- Purnia

Amit Kumar Sharma @ Munna Singh, Son of Vijay Kumar Sharma, Resident of Village - Rambagh Near SNSY Collage Ward No.31, Purnea, P.s.- Sadar, Dsitt.- Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar, Advocate

For the Opposite Party/s : Mr. Arun Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

4 18-07-2022 Heard learned counsel for the petitioner and learned APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with Special Case No. 53 of 2021 (NDPS Act) arising out of Purnea Sadar P.S. Case No. 317 of 2021 registered for the alleged offences under Sections 8/20 (b)(ii) B of the NDPS Act.

The police received secret information about petitioner bringing *ganja* from outside and selling it from his house and a raid was conducted and the petitioner and co-accused Karan Kumar were apprehended. From the house of the petitioner, 6.930 KG of *ganja* and cash of Rs. 3,45,390/- were



recovered.

The learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case. It is not clear that the seized ganja belongs to this petitioner and the recovery has been shown from the house of the petitioner where other members also reside and for this reason, the petitioner cannot be held accountable for the recovered *ganja*. The petitioner is an old man and he has been made scape-goat for the wrong act of his sons in this case. The money recovered from the house is proceeds of sale of some land by the petitioner and it is not the proceeds of sale of *ganja*. The learned counsel further submits that there is complete violation of Sections 42 and 50 of the NDPS Act which would certainly vitiate the trial. The learned counsel further submits that the charge-sheet has been submitted in this case without FSL report and for this reason no cognizance could be taken in this case so far and there is every chance that prosecution would fail on this count. The petitioner is in custody since 29.06.2021, i.e., for more than one year.

Learned APP opposes the prayer for bail submitting that 6.930 KG of ganja along with sale proceeds of more than Rs. 3,00,000/- have been recovered from the house of the petitioner. The learned APP pointed out that the petitioner is also an accused under Section 302 of the Indian Penal Code.



Perused the records.

Having regard to the submissions made hereinabove and considering the fact that charge-sheet has been submitted without any FSL report and for this reason no cognizance has been taken in this case despite custody of the petitioner for more than a year, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 10th, Purnea in connection with Special Case No. 53 of 2021 (NDPS Act) arising out of Purnea Sadar P.S. Case No. 317 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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