

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68742 of 2021**

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

SUNIL KUMAR @ SUNIL KUMAR SAH Son of Shiv Kumar Sah @ Shiv Kumar Resident of South Maheshwari Ward No.- 18, Haripur, P.S.- Jogbani, District - Araria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar

For the Opposite Party/s : Mr.Sanjay Kumar Singh

**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 arising out of Jogbani P.S. Case No. 129 of 2021, registered for the offence punishable under sections 20,21, 22 and 23 of the N.D.P.S. 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, four packets containing charas like substance and from the co-accused person namely Jitendra Sah, two 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 and is languishing in custody since 01.07.2021. It is also submitted that though the petitioner is accused in two other cases, but he is on bail in the said two cases. The learned counsel for the petitioner has also submitted that as far as the petitioner is concerned, only four 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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