

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36884 of 2023

Arising Out of PS. Case No.-20 Year-2021 Thana- SARAIYA District- Muzaffarpur

SONU KUMAR SON OF RAMADHIN MAHTO @ RAM ADHAN
MAHTO RESIDENT OF VILLAGE- AMAITHA MANGOSAR, PS-
SARAIYA (OP- JAIPUR), DISTT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Yugal Kishore, Adv.

For the Opposite Party/s : Mr. Syed Ehteshamuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 09-08-2023 1. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.
2. Petitioner seeks bail, who is in custody since 09.01.2021 in connection with NDPS Case No.02/2021, arising out of Saraiya (Jaintput O.P.) P.S. Case No. 20/2021, dated 07.01.2021, for the offences punishable under Sections 414/34 of the IPC, Section 25(1-b)a, 26, 35 of the Arms Act and Sections 20/22 of NDPS Act.
3. According to prosecution case, one loaded country made pistol along with 500 grams of Charas and a Samsung mobile were recovered from the possession of the petitioner.
4. Learned counsel for the petitioner submits that earlier the bail petition of the petitioner was rejected vide order dated 16.05.2022 in Cr. Misc. No. 60812 of 2021. Thereafter the petitioner again moved before this Hon'ble Court in Cr. Misc. No. 20107/2023,



which was dismissed as withdrawn with liberty to file a fresh application before the learned court below as the impugned order has already been assailed in Cr. Misc. No. 60812/2021. Thereafter the petitioner again approached this Court for grant of bail in the aforesaid case. Learned counsel for the petitioner submits that from perusal of the F.I.R. as well as seizure list, it appears that altogether 1100 grams of Charas have been recovered from the possession of the petitioner and other co-accused. He further submits that from perusal of the seizure list, it appears that 500 grams of Charas and a Samsung mobile have been recovered from the possession of the petitioner and 600 grams of Charas was recovered from the possession of co-accused namely Sujit Kumar and one loaded country made pistol was recovered from the possession of co-accused namely Abhinandan Sahani.

5. Vide order dated 21.06.2023 a report was called for from the learned Trial Court. Report dated 04.07.2023 of the learned Trial Court reveals that the charge has been framed against the petitioner on 17.11.2021 and the case is pending for examination of the prosecution witnesses and out of 9 charge sheeted witnesses, none of the witnesses have been examined as yet.

6. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in near future and the petitioner is in custody since 09.01.2021.



7. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner has carried seven criminal antecedent other than the present one. He further submits that the F.S.L. report also confirms that the recovered contraband is Charas and the recovered contraband is more than the commercial quantity, so, there is embargo under Section 37 of the NDPS Act.

8. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar offence.

9. The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors Vs. Rajesh & Ors**, reported in **2020 (12) SCC 122, Narcotic Control Bureau Vs. Mohit Aggarwal**, reported in **AIR 2022 SC 3444 and SLP (CRL) No.2351 of 2023 (Union of India Vs. Ajay Kumar Singh @ Pappu)** dated 28.03.2023.

10. The recovery of huge quantity of Charas from possession of the petitioner would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release. Hence, I am not inclined to enlarge the petitioner on bail in



connection with NDPS Case No.02/2021, arising out of Saraiya (Jaintput O.P.) P.S. Case No. 20/2021, pending in the Court of learned 1st Additional Sessions Judge, Muzaffarpur.

11. Prayer is refused.

12. However, the learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

(Rajesh Kumar Verma, J)

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