

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74328 of 2022

Arising Out of PS. Case No.-302 Year-2022 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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SUNIL KUMAR S/o Mahendra Pratap Singh R/o Mohalla- Magadh Colony,
Road no. 11, P.S.- Magadh Medical, Distt- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No2, Advocate
For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 17-04-2023 Heard the parties.

The petitioner is in custody since 15.09.2022 in connection with Magadh Medical P.S. Case No. 302 of 2022 under Sections 18, 20 and 22 of the Narcotic Drugs Psychotropic Substance Act-1985 lodged on 13.09.2022 by the informant Raj Kumar Sah.

The prosecution story, in brief, is that the informant, the Officer-in-Charge of Magadh Medical P.S. Gaya alleged that he alongwith other police personnel were on patrolling when, he received secret information that in Magadh Colony Road No. 11 in the house of Sunil Kumar and Sujit Kumar there is a Kirana Shop in which they have stored the intoxicated items and selling the same.



On such information, the police reached and ... nobody was ready to become witness therefore two constables of raiding party become witness of the case and raided the shop where the person disclosed his name as Sunil Kumar. A search has been made in the house and a black polythene was found having opium in it. Another plastic was also seized in which 'Ganja' was kept. On measuring, the said opium was 220 grams while 25 grams ganja seized. Search and seizure was in presence of step-mother and brother-in-law of accused. He was arrested and F.I.R. lodged.

It has been contended that due to alleged recovery/seizure of 25 grams of 'ganja' and 220 grams 'opium', he has already been suffered by being in custody since 15.09.2022 (as stated in Para-13 of the petition) and the seized material is not commercial quantity. Further, all the witnesses are police officials.

The last submission is that he not have criminal antecedent.

Learned APP opposes the prayer but concedes it is below commercial quantity.

Considering his period of custody, 15.09.2022 as also the fact that he do not have criminal antecedent and quantity



was recovered/seized according to learned APP is below commercial one, this Court is inclined to grant him the privilege of bail. However, if it is found that para-3 regarding no criminal antecedent is wrong, the bail order shall become infructuous.

Let the petitioner be released on bail, on furnishing bail bond of Rs. 20,000/- (Twenty thousand) with two sureties of like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, NDPS Act, Gaya, in connection with Magadh Medical P.S. Case No. 302 of 2022 with conditions.

(i) one of the bailor should be the family member of the petitioner who shall provide official document to show his bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every fortnight for one year to mark his attendance;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for



cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

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