

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 233 of 2022

Arising Out of PS. Case No.-58 Year-2020 Thana- LALGANJ District- Vaishali

Sunny Kumar Son of Anil Singh Resident of Village- Garauna, P.S.- Lalganj,
District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vinay Ranjan
For the Respondent/s : Mr.Binod Kumar

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 21-09-2024

This revision petition has been preferred by the petitioner being aggrieved with the order dated 25.02.2022 passed by the learned Additional Sessions Judge I, Vaishali at Hajipur in NDPS Case No 24 of 2020 whereby and where under the learned Sessions Court rejected the application of the petitioner filed under Section 227 of the Cr P C.

2 According to the case of the prosecution, on 20.02.2020 at about 14.25 hours, the informant received confidential information that 4-5 anti social elements have assembled in an orchard situating west to the road leading from Langripakar to Mansupur to commit some offence. Further information was received that some suspicious persons have made



several rounds of the place. Thereafter, at the time of vehicle checking, 4-5 persons were observed coming on Apache motorcycle and one Splendor motorcycle. They were stopped and during that process, they tried to flee away from the place of incident. During that process, Apache motorcycle fell down and the persons were caught with the aid of armed force. The persons, who were caught, disclosed their names as Chhotu Kumar @ Rakesh and Bittu Kumar. Upon search, 300 grams of Charas was recovered from the possession of Chhotu Kumar and one country made pistol, loaded with cartridge, was recovered from the possession of co-accused Bittu Kumar. During the course of enquiry, Chhotu Kumar disclosed the fact that the present petitioner and one Bhim Sahni were also involved in the trade of charas. It was also found that at the time of incident, they were also present at the spot and on seeing the police party, they fled away from the spot. On the basis of said information, case has been registered.

3 Learned counsel for the petitioner would submit that the petitioner is innocent and he has committed no offence, as alleged by the prosecution. According to the counsel, from the possession of the petitioner, none of the articles, i e, charas or pistol has been seized. It is submitted that only on the basis of



statement of co-accused Chhotu Kumar, the petitioner has been implicated in this case. Since there is no material available on record against the present petitioner, therefore, the learned trial Court ought to have allowed the petition under Section 227 of the Cr P C.

4 Learned State Counsel opposes the argument. It is submitted that considering the material available on record, the learned trial Court rightly rejected the application filed under Section 227 of the Cr P C.

5 Heard both the counsel and perused the documents annexed with the petition.

6 Undisputedly, from the possession of the present petitioner, neither any charas has been seized nor any pistol or cartridge. Except the confessional statement of co-accused Chhotu Kumar, there is no evidence available on record against the petitioner which shows that he was also involved in the alleged crime. There is also no material on record which shows that at the time of incident, the present petitioner was also present on the spot and on seeing the police party, fled away from the spot. The learned trial Court, only on the basis of supervision note made by the senior police officer, arrived on the conclusion that the petitioner is also involved in the said crime. The above finding



recorded by the learned trial Court, which is based upon the supervision note of the senior police officer, is erroneous as the said supervision note is not part of the charge sheet.

7 Considering the material and the charge sheet, this Court finds that except the statement of co-accused Chhotu Kumar, which is not admissible against the petitioner, there is no material available on record against the petitioner to implicate him in the alleged crime.

8 Therefore, the impugned order dated 25.02.2022 passed by the learned Additional Sessions Judge I, Vaishali is set aside. This revision petition is allowed.

9 The petitioner is discharged from the alleged offences, i e, under Sections 25 (1-B) a, 26, 35 of the Arms Act and Sections 20, 22, 23, 24, 27, 29 of the NDPS Act.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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