

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42726 of 2024

Arising Out of PS. Case No.-219 Year-2021 Thana- SONBERSA District- Sitamarhi

Chhotu Mahto @ Chhote Mahto, aged about 23 years, Male, Son Of Late Chandeshwar Mahto, R/O- Village- Sonbarsa, Ward No. 11, P.S.- Sonbarsa, Distt.- Sitamarhi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Uday Kumar, Advocate
For the Opposite Party : Mrs. Rita Verma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

10 28-03-2025 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Sonbarsa P.S. Case No. 219 of 2021 dated 06.08.2021 registered for the offences punishable under Sections 8 (C), 20(b)(ii)(C), 27(A), 29 of the N.D.P.S. Act and Sections 25(1-b)a, 26 and 35 of the Arms Act.

3. As per the prosecution case, on 05.08.2021 at about 14.20 hours, on search, 13.500 kgs. Ganja and 180 Gram Charas was recovered from the house of the petitioner. It is further alleged that 24.600 litres ALTOREX-CD Cough Syrup was



recovered from the medicine shop of the co-accused Sanjay Mahto who is the renter of Chhotu Mahto (petitioner). It is further alleged that 49 kgs., Ganja, one country made pistol, four magazines, six live cartridges and one country made katta were recovered from the room of the house of the petitioner. It is further alleged that on search, Lupicof-DX Codeine Cough Syrup 220 bottles, Cocas-DX Codeine Cough Syrup 158 bottles, Dialex-DC Codeine cough syrup 566 bottles, total 94.400 litres was recovered from the house of the co-accused Sushila Devi. She has further disclosed that these medicines belong to 'Raju Medical Shop' which is of the co-accused Raj Kumar Yadav who is renter of Sushila Devi. It is further alleged that on the disclosure made by the co-accused Shushila Devi, police raided the house of the co-accused Raj Kumar Yadav and recovered Consore Codeine Cough Syrup 95 bottles and Supkof Codeine Cough Syrup 60 bottles total 15.500 litres from his house.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in the present case only on the basis of suspicion and on identification of the local Chaukidar but the name of the Chaukidar has not been disclosed in the F.I.R. Except this, there is no other substantive evidence to suggest the implication of the petitioner



in the present case. He was not arrested on the spot. No incriminating article has been recovered from his possession. It is further submitted that the petitioner is neither the owner of the seized articles nor he has any connection with the said recovery of Ganja, Charas, Pistol, Cartridges and medicines which were recovered from different places. There is no statutory compliance of Sections 42 and 50 of the N.D.P.S. Act. It is further submitted that seized 13.500 kgs., Ganja and 180 Grams are said to be recovered from the joint house of the petitioner which is below the commercial quantity. He has no concern with the alleged offence. It is further submitted that other co-accused persons Sanjay Mahto and Sushila Devi have already been granted bail by Co-ordinate Bench of this Court vide Cr. Misc. No. 65248 of 2021 under order dated 21.04.2022 and Cr. Misc. No. 65297 of 2021 under order dated 22.04.2022 respectively, annexed as Annexure-P/3 series to the present bail petition. A report with respect to the trial of the petitioner has been received from the trial court vide Letter No. 102/2024 dated 14.11.2024 from the court of learned 2nd Additional Sessions Judge, Sitamarhi, in which it has been reported that the charge has yet not been framed against the petitioner and the case record is fixed for supply of police paper and no any witness has been



examined and the trial is likely to be concluded in more than six months. The petitioner has one criminal antecedent as stated in paragraph no. 3 of the bail application as well in paragraph nos. 3 and 4 of the supplementary affidavit filed on behalf of the petitioner. The petitioner is in custody in this case since 01.03.2024.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail petition of the petitioner. A counter affidavit has also been filed on behalf of the Superintendent of Police, Sitamarhi.

6. Considering the aforesaid facts and circumstances of the case as well the period of custody, let the above named petitioner, be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Sitamarhi in connection with Sonbarsa P.S. Case No. 219 of 2021 with further condition:-

I. The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner are liable



to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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