

In the Court of Addl. Sessions Judge- I,

Vaishali at Hajipur,

Hajipur Sadar PS Case No.- 278/2020

Ref :- Arising out of Hajipur Sadar PS Case No. 278/2020, Dated 08.05.2020, U/s 414 of IPC, 8/20(b)(ii)(B)/25/29 of NDPS Act and 52 of Prisoners Act.

In the matter of :-

Raj Nandan Kumar @ Chhotu Kumar, Age- 22 years, Son of Chandeshwar Ram @ Chandrashekhar Ram, R/o Village- Dighi Kala, PS- Hajipur Sadar, District- Vaishali,
..... Petitioner

Versus

The State of Bihar

Present :-

..... Opposite Party
Udaywant Kumar,
Addl. Sessions Judge-I,
Vaishali at Hajipur.

Learned Counsel for petitioner:- Ram Nath Sharma, Advocate

Learned Counsel for Opp. Party :- Shree Prahlad Chaurasiya, SPP

Date of order :- 20.04.2022

ORDER

The petitioner above named is serving judicial custody since 22.10.2021 in connection with aforesaid case and hence the instant petition for the grant of regular bail has been filed on his behalf. The copy of the bail petition has been served on learned prosecutor.

The prosecution case is that on 08.05.2020 in course of morning patrolling the informant observed few persons on 2 motorcycles standing on the road leading to Lalpokhar adjacent to South-East corner of the boundary wall of district prison. It is alleged that upon witnessing police they started running away and upon suspicion one person out of them was caught with the aid of force. It is further alleged that a bag was recovered from the possession of the person so apprehended by police and upon inquiry he stated his name as Ranjit Kumar whereas he disclosed the names of the persons so fled away therefrom as Uttam Kumar, Chotu Kumar and Anna Kumar. He further disclosed that a TVS motorcycle bearing registration no. BR-31C-6675 was brought there by Anna and Chotu whereas the Passion Pro motorcycle bearing registration no. BR-31V-6579

is his own. The further prosecution case is that upon search of the bag so being carried by the apprehended person one mobile and Ganja was recovered and upon inquiry he conceded that he brought said article to through the same inside prison for the service of prisoners. He further disclosed that for doing so he was instructed by under trial prisoner Md. Javed Akhtar and Jyoti Rai and he was doing so in lieu of money. It is even further alleged that upon measurement of the contraband total 1750 Gm Ganja was found and beside that the police has also recovered 5 mobile phones and some other articles from his possession. Accordingly, seizure was prepared and FIR has been instituted.

The learned counsel for petitioner submitted that petitioner is innocent and he has committed no offence whatsoever as alleged. It is further submitted that prosecution case as alleged is false, frivolous, baseless, concocted and the matter of fact is that nothing was recovered from the conscious possession of petitioner nor he was apprehended from the place of seizure. It is further submitted that the petitioner has been implicated only on the statement of co-accused apprehended from the place of seizure and except that there is no material against him there on the record. The learned counsel even further submitted that no contraband was recovered from the possession of petitioner. It is at last submitted that respectable persons of the locality and sound sureties are ready to stand as bailors for the petitioner. It is, therefore, prayed that petitioner be allowed regular bail.

Learned additional public prosecutor opposed the petition.

Heard the parties and perused the record. The allegation against petitioner is that he happens to be the part of criminal conspiracy of surreptitious transportation of illegal Ganja and mobile phone inside the prison by throwing the same inside the boundary wall from the road adjoining boundary wall of the prison. In course of argument it is submitted by learned counsel that on account of clerical defect the petition so filed on behalf of petitioner on 22.10.2021 could not be pressed earlier and upon removal of the defect the petition is being pressed. On the perusal of case diary so found available on the record it transpires that witnesses mentioned in para-9,20 and 21 have supported the prosecution case. The seizure list is mentioned in para-2 of the case diary wherein the recovery of 1750 gm Ganja beside 5 mobile phones and some other articles is mentioned. On the perusal of

para-3 of the bail petition it transpires that the petitioner has disclosed his 8 criminal antecedents. He is stated to be earlier accused in (i) Hajipur Sadar PS Case no. 780/2020, u/s 8/20 (b) (ii) (B)/25/29 of NDPS Act, (ii) Hajipur Sadar PS Case no. 762/2020, u/s 392 of IPC, (iii) Hajipur Sadar PS Case no. 176/2020, Excise Act, (iv) Hajipur Sadar PS Case no. 175/2018, u/s 394/414/411 of IPC, (v) Lalganj PS Case no. 58/20 of N.D.P.S Act, (vi) Hajipur Town PS Case no. 285/17 of Arms Act, (vii) Hajipur Town PS Case no. 55/2017, u/s 285/290 of IPC, (viii) Kudhani PS Case no. 528/2019. The motorcycle so recovered from the place of seizure is alleged to be belonging to petitioner and his name as a person involved in the offence is disclosed by person apprehended from the place of seizure. Considering the nature of allegation, long criminal antecedent standing against the name of petitioner, gravity of offence and other facts and circumstance of the case this court is not inclined to admit the petitioner to regular bail and hence the petition so filed on his behalf is hereby rejected.

Addl. Sessions Judge-I
Vaishali at Hajipur
20.04.2022