

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.13001 of 2021**

Arising Out of PS. Case No.-222 Year-2020 Thana- CHAINPUR District- Kaimur (Bhabua)

TABREJ KHAN Son of Mohammad Kamal Khan Resident of Mohalla -
Ward No. 17, Bhabua, P.S.- Bhabua, District - Kaimur at Bhabua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Parwej Khan, Adv.

For the Opposite Party/s : Ms. Madhuri Lata, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 26-08-2021 Learned counsel for the petitioner undertakes to

remove all the defects as pointed out by office within four

weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Ms.

Madhuri Lata, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in

connection with Chainpur P.S. Case No.222/2020 (arising out of

N.D.P.S. Case No.21/2020) registered for the offences

punishable under Sections 8/20(b)(ii)©/27(A) of the N.D.P.S.

Act.

Learned counsel for the petitioner submits that as per

the prosecution story the sub-inspector of police intercepted a

Maruti car and from the said car 208 kgs of Ganja has been

recovered. In the First Information Report it is stated that taking advantage of the darkness the driver and khalasi of the vehicle fled away. Learned counsel submits that later on in course of investigation on the statement of a spy whose name is not disclosed the police arrested the co-accused Vikash Kumar and extracted his confessional statement in police custody wherein he has disclosed the involvement of the co-accused Shakil Khan and this petitioner including others in the transactions of Ganja.

Learned counsel submits that firstly there is no identification of this petitioner at the time of fleeing away, he is not named in the FIR and the solitary material which has come against the petitioner is the confessional statement of the co-accused Vikash Kumar who was arrested on the basis of the statement of a spy.

Learned counsel further submits that the vehicle does not belong to the petitioner, in course of investigation it has come that the owner of the said vehicle is one Jasvinder Kaur. The said owner of the vehicle has not been examined and nobody has said that this petitioner was using the vehicle, therefore, save and except mere suspicion based on a totally inadmissible kind of material there is nothing against this petitioner.

It is further submitted that the petitioner has got no criminal antecedent.

Learned counsel submits that in the above circumstance the petitioner satisfies the twin conditions under Section 37(1)(b) of the NDPS Act, 1985 and deserves privilege of bail.

Ms. Madhuri Lata, learned APP for the State has gone through the case diary, she has confirmed to this Court that the petitioner is not the owner of the vehicle. In paragraph '181' of the case diary the name of the owner has come and she has further confirmed that the owner has not been examined and there is no independent witness saying that this petitioner was ever seen with the vehicle in question.

Learned APP further confirms to this Court that the name of the petitioner has come in the confessional statement of the co-accused whose name was disclosed by a spy. No criminal antecedent of the petitioner has been pointed out to this Court.

Learned counsel for the petitioner as well as learned APP for the State say that the learned Sessions Judge-cum-Special Judge has committed an error of record in the impugned order saying that this petitioner is owner of the vehicle.

In the facts and circumstances stated hereinabove

wherein this petitioner is neither named in the FIR nor identified by anybody leaving the vehicle in question and fleeing away, no recovery from his possession has been made and there is no independent witness saying that the petitioner was with the vehicle in question, he has no criminal antecedent and has remained in jail in connection with this case for over one year, investigation against him is complete, this Court is of the considered opinion that the petitioner has satisfied the twin conditions under Section 37(1)(b) of the NDPS Act, 1985.

Since he has no criminal antecedent, therefore, there is no reason to believe that he will indulge in any offence if released on bail. Thus, this Court directs that the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, Kaimur at Bhabua in connection with Chainpur P.S. Case No.222/2020 (Arising out of N.D.P.S. Case No.21/2020), subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal

antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.