

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.18634 of 2021**

Arising Out of PS. Case No.-269 Year-2020 Thana- MANIGACHI District- Darbhanga

MD NEZAM @ MD NIZAAM @ MD NIZAM Son of Md. Makbool @ Md. Makbul Resident of Village- Kamalpur Katwasa, P.S.- Baheri, District- Darbhanga.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Manish Kumar No 13, Advocate

For the Opposite Party/s : Dr. Mritunjay Kr. Gautam, APP

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

2 02-08-2021 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 learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Manigachhi (Nehra O.P.) P.S. Case No. 269/2020 giving rise to Special Case No. 23/2020/G.O. (N.D.P.S.) 23/2020 registered for the offences punishable under Section 20 of Narcotic Drugs and Psychotropic Substances Act.

Learned counsel for the petitioner submits that as per the prosecution story, the informant was deputed as Magistrate for upcoming assembly election and while he along with other police officials were engaged in checking the vehicle, the

informant stopped one Auto Rickshaw and on checking a bag of one passenger with the help of police, the informant recovered total 4.850 kg. of Ganja from the bag and the apprehended person disclosed his name as the petitioner.

Learned counsel for the petitioner submits that in the present case the search and seizure have not been made in accordance with section 40 and 50 of the N.D.P.S. Act. Learned counsel further submits that the alleged quantity of Ganja recovered from the possession of the petitioner is said to be 4.850 kg. which is less than the commercial quantity. Learned counsel further submits that the petitioner is in custody in connection with the present case since 01.11.2020, investigation against him is complete but the trial is not likely to take place in near future, he is said to be on bail in the only case stated in paragraph '3' of the application.

It is further submitted that the learned Sessions Judge, Darbhanga has committed an error of record by saying that huge quantity of Ganja has been recovered.

On the other hand, learned A.P.P. has opposed the prayer for regular bail of the petitioner but considering the facts and circumstances of the case, the quantity of Ganja being 4.850 kg. in which Section 37 of the N.D.P.S. Act is not attracted, the

petitioner is in custody for more than nine months, investigation against him is complete but the trial is not likely to take place in near future, this Court directs release of the petitioner above-named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 7th Additional Sessions Judge, Darbhanga in connection with Manigachhi (Nehra O.P.) P.S. Case No. 269/2020 giving rise to Special Case No. 23/2020/G.O. (N.D.P.S.) 23/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

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)

Rajeev/-

U		T	
---	--	---	--

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'.