

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2959 of 2022

Arising Out of PS. Case No.-63 Year-2021 Thana- UDWANTNAGAR District- Bhojpur

Hakim Saha S/o Rajendra Saha R/O Village-C/o Pankaj Agrawal, Ward No.-
15 Infront of Water Tanki, Tilda Raipur, P.S.- Raipur Town, Dist.- Raipur
(Chhatish Garh), At/P Vill.- Asani, P.S. Udawantnagar, Dist.- Bhojpur
... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar, Advocate

For the Opposite Party/s : Mr.Shyam Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 03-09-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with
Udwantnagar (Gajrajganj) P.S. Case No. 63 of 2021 registered
for the offence under Sections 411, 420, 464, 468, 471 and 120B
of the Indian Penal Code and under Section 8, 20(b)(ii)(c), 25
and 29 of the N.D.P.S. Act.

The accused/petitioner is not named in the F.I.R. and
is in custody since 02.10.2021.

That allegation against the petitioner is to deal in
narcotic drugs, where total of 2386.615 Kg contraband i.e.
'Ganja' was recovered from his truck bearing Registration No.
CG04JB-1060.



Learned counsel appearing on behalf of the petitioner submitted that petitioner is not connected in any manner with the alleged truck from where the contraband i.e. 'Ganja' was recovered. It is submitted that admittedly, it is not a case of recovery from physical possession of the petitioner. It is further submitted that the compliance of Section 42 and 50 of the N.D.P.S. Act was not made in the present case. While concluding the argument, it has been submitted that investigation is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail submitted that counter affidavit of Superintendent of Police, Bhojpur at Ara, dated 06.7.2022, clearly speaks that alleged truck belongs to this petitioner, where certain documents were procured by changing his name from Hakim Saha to Hakim Prasad. It is further submitted that recovery of alleged contraband i.e. Ganja is of huge quantity i.e. 2386.615 Kg, where commercial quantity is prescribed as 20 Kg under the schedule of N.D.P.S. Act, 1950. It is also submitted that Section 37 of the N.D.P.S. Act put a bar while dealing a bail, where recovery is of commercial quantity.



In view of the facts and circumstances as mentioned above, as petitioner appears to be owner of the alleged truck, where the documents appears to be forged on its face in the name of Hakim Saha, as per counter affidavit of S.P. Bhojpur at Ara, coupled with the fact that alleged recovery of contraband is of huge quantity i.e. 2386.615 Kg, this Court is not inclined to grant privilege of bail to the petitioner, at present.

Accordingly, the prayer for bail of the petitioner is rejected herewith.

The trial court is directed to conclude the trial, preferably, within a period of 09 (nine) months from the date of receipt of this order, by taking matter on board, on day-to-day basis, however, petitioner may renew his prayer of bail, if trial is not concluded within the aforesaid time period, if so advised.

The Superintendent of Police, Bhojpur at Ara, is directed to produce the charge-sheeted witnesses, as and when directed by the trial court, so as to conclude the trial within aforesaid time period, as directed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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