

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3108 of 2022

Arising Out of PS. Case No.-76 Year-2021 Thana- BHORE District- Gopalganj

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RUPESH KUMAR YADAV Son of Mr. Ramu Yadav Resident of Village -
Rawtara, P.S.- Rawtara, Distt.- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Babita Kumari

For the Opposite Party/s : Ms.Gulnar Begum

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 29-06-2022 The learned counsel for the petitioner is directed to

remove all the defects pointed out by the Stamp Reporter within one

month.

Heard learned counsel for the petitioner and the State.

Petitioner seeks regular bail in a case registered for the

offence punishable under Sections 8,20, 22, 23, 24, 25,27 of NDPS

Act.

Allegedly, from the person of the petitioner 405 gram

narcotic substance like **charas** was recovered.

The main submissions advanced by the learned counsel

for the petitioner are that complaint as well as seizure of the alleged

contraband was not made at the alleged place of recovery, as per

mandatory provision of NDPS Act, sample of recovered narcotic

substance must be sent to Forensic Science Laboratory within 72

hours from the recovery but compliance of the said mandatory



provision was not made and sample of alleged recovered material of narcotic substance was sent one month after the alleged recovery and till date FSL report has not been received. Further submission is that, no independent witness was examined and all witnesses examined are police personnels and investigation has been completed and case of the petitioner is pending for framing of the charge and he has been languishing in jail since 25.2.2021 having clean antecedent.

Learned APP opposes the prayer for bail.

In view of above submissions and mainly considering petitioner's plea as to non-examination of private persons during investigation who have been shown as witnesses of seizure of alleged narcotic substance and also considering the fact that investigation has been completed and charge has not been framed till now, FSL report of alleged contraband has not been received and petitioner has no criminal antecedent as reflected from para 3 of his petition, in my view, in light of these facts, a lenient approach may be taken in respect of the petitioner as case of the petitioner is at initial stage and as per above submissions all prosecution witnesses who are to be examined are police officials.

Accordingly, petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Gopalganj in Trial no. 14 of 2021 arising out of Bhorey P.S Case No. 76 of 2021 on the following conditions:-



(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court below and shall remain physically present as directed by the Court below and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

(3) One of the bailers shall be close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

The court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner is found then the court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

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