

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6213 of 2022**

Arising Out of PS. Case No.-439 Year-2021 Thana- BIDUPUR District- Vaishali

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Munshi Bhagat @ Mithilesh Paswan @ Mithilesh Bhagat S/O Late Naresh Paswan @ Naresh Bhagat R/O Village- Daud Nagar, Lp.S.- Bidupur, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 24-06-2022 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 Bidupur P.S. Case No. 439 of 2021 registered for the offence under Sections 20, 21, 22 and 23 of NDPS Act and Section 30(a) of Bihar Prohibition and Excise Act.

The accused/petitioner is named in the F.I.R. and is in custody since 09.11.2021.



The allegation against the petitioner is to have in possession of 5.1 kg of Ganja and 92.500 liters of illicit country made liquor, which was recovered from the house of the petitioner.

Learned counsel appearing on behalf of the petitioner submitted that the house of the petitioner is jointly occupied by other family members, as such, it cannot be said that the recovery has been made from the conscious physical possession of the petitioner. It has further been submitted that petitioner is involved in two more cases, as mentioned in paragraph no.3 of the bail petition in which he is on bail. It has further been submitted that the alleged contraband (Ganja) is less than commercial quantity. While concluding the argument, it has further been submitted that compliance of Section 100 of Cr.P.C. has not been made and chargesheet has already been submitted in this case, as such there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded that the recovery has been made from the house of the petitioner, which is jointly occupied by other family members.

Considering the facts and circumstances as mentioned



above, as the recovery has not been made from the conscious physical possession of the petitioner coupled with the fact that chargesheet has already been submitted in this case, let the petitioner, above named, is directed to be released on bail in connection with Bidupur P.S. Case No. 439 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, NDPS Act, Vaishali, Hajipur, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by



the documents.

(iii) That one of the bailors shall be
Bebi Devi, who is the wife of the petitioner
and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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