

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7360 of 2022

Arising Out of PS. Case No.-377 Year-2021 Thana- BANMANKHI District- Purnia

Dilip Kumar @ Dilip Kunwar @ Dilip Kuvar S/O Dhirendra Kunwar @
Dhirendra Narayan Kumr @ Dhirendra Narayan Kunwar R/O Village-
Makhnaha Ward No. 12, P.S.- Banmankhi, District- Purnea

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kamal Kishore Singh, Advocate
Mr. Amarnath Singh, Advocate
Mr. Anil Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 12-07-2022 Let the defects, if any, be removed within four
weeks from today.

Heard learned counsel for the petitioner as well as
learned Additional Public Prosecutor for the State.

Petitioner seeks bail in a case registered in
connection with Special Case No. 01 of 2022 CIS no. 01 of
2022 (NDPS) Act arising out of Banmankhi P.S.Case No.
377 of 2021 for the offences punishable under Sections
8/20(b) (ii),(B) of the N.D.P.S Act.

As per the prosecution case, it is alleged that
petitioner was apprehended by the police and on search



being made from the house of the petitioner 1 kg 900 gm Ganja kept in a school bag from the passage of cattle house and further 200 gm from the house of the petitioner. Total 2.200 kg Ganja was recovered.

It is submitted by the learned counsel for the petitioner that from the tenor of the FIR, it is evident that nothing has been recovered from conscious possession of the petitioner and moreover, the alleged recovery has been made from a joint family house where several persons were residing and as such petitioner cannot be claimed to be sole responsible. It is further submitted that the alleged recovered Ganja is much below of the commercial quantity and as such the embargo under section 37 is not applicable. Further there is no compliance of section 43 and 50 of the NDPS Act and the seizure list witnesses are of persons of distant places, which also cast suspicion. It is lastly submitted that the police has submitted final form but that too, without obtaining the FSL report which vitiate the prosecution case.

On the other hand, learned counsel for the State opposed the bail application of the petitioner and submits



that recovery has been made from the house of the petitioner. Petitioner is found involved in one another case.

Having heard the rival contentions of the parties and taking into consideration the fact that the alleged recovery has been made from the joint family house and moreover, the recovered Ganja is much below the commercial quantity, and there is no compliance of sections 43 and 50 of the NDPS Act and he is the first offender of such kind of case and is in custody since 08.11.2021, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge NDPS Act, Purnea in connection with Special Case No. 01 of 2022 arising out of Banmanki P.S. Case No. 377 of 2021 subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date



of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 cancelling 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.

(Harish Kumar, J)

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