

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13608 of 2022

Arising Out of PS. Case No.-776 Year-2021 Thana- AKBARPUR District- Nawada

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Rano Mahto @ Rana Mahto @ Ranvijay Prasad @ Pratap Kumar @ Ramu
Mahto Son of Late Jagdish Mahto Resident of Village - Farha, P.S. -
Akabarpur, District - Nawada.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arjun Prasad, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 11-07-2022 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
learned APP for the State.

Petitioner seeks regular bail in connection with
Akbarpur P.S. Case No. 776 of 2021 registered for the offences
under Sections 8(b)/20(a) (b) of N.D.P.S. Act.

Allegedly 5 green plants suspected to be plants of
Ganja weighing 21.7 Kg were recovered from the farm land of
the petitioner and the petitioner is alleged to be indulged in
cultivation of Ganja plants.

The main submissions advanced by learned counsel



for the petitioner are that alleged place of recovery of contraband plants does not belong to the petitioner from where the alleged contraband plants is stated to have been recovered and the alleged recovered Ganja plants do not come under the prescribed commercial quantity as admittedly the said plants were seized in green condition and while weighing the plants the stem, leaf and root were also taken into account by the police and Section 37 of N.D.P.S. Act is not applicable in the petitioner's case and considering the same situation the coordinate bench of this Court granted bail to the accused in connection with Akbarpur Case No. 776 of 2020 by passing an order in Criminal Miscellaneous No. 29570 of 2021. Further submissions is that petitioner has been languishing in jail since 31.12.2021 and the investigation has been completed and the witnesses of seizure are stated to be police chaukidars and there is no independent witness of the alleged recovery.

Learned APP for the State has opposed the bail prayer.

Heard both the sides and perused the FIR and seizure list of the alleged contraband attached to the FIR. Petitioner has mainly taken the plea that the seized contraband was found being planted on a land which does not belongs to the petitioner and the same do not come under the purview of commercial



quantity as while weighing the contraband plants every part of the plant such as leaf, stem, root were taken into consideration by the search party. The said pleas have not been refuted by the prosecution and it is accepted by the learned APP that the alleged contraband may have come in greater than small quantity but lesser than commercial quantity.

Considering the above facts as well as petitioner's custody period and also the fact that all the witnesses of the alleged recovery are stated to be police personnels and petitioner's case is at initial stage of trial, in my view a lenient approach can be taken in respect of petitioner's prayer let the petitioner 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 concerned Court in Connection with Akbarpur P.S. Case No. 776 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 a close relative of the petitioners who has sworn affidavit in this miscellaneous petition.

(4) 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 other than Akbarpur P.S. Case No. 81 of 2002 of the petitioner are found then the Court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

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