

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16243 of 2022

Arising Out of PS. Case No.-108 Year-2021 Thana- BUXAR RAIL P.S. District- Bhojpur

Arvind Kumar Son of Shiv Shankar Sah Resident of village - Chhota Ki
Sarempur Road Golambar, P.S.- Muffasil, District – Buxar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 26-07-2022 The counter affidavit duly sworn by Dy. S.R.P.

(H.Q) Rail, Patna has been filed by Mr. Jitendra Kumar
Singh, the learned APP for the State. The same is kept on
record.

Heard Mr. Anil Kumar Singh, learned counsel for
the petitioner and Mr. Jitendra Kumar Singh, learned APP for
the State.

Let the defect(s), if any, as pointed out by the
office be removed within four weeks.

The petitioner is in judicial custody in connection
with NDPS Case No. 4 of 2022 arising out of Buxar Rail P.S.
Case No. 108 of 2021 for the offences under section 8/20(b)
ii (c) of the Narcotic Drugs of the Indian Penal Code.



The allegation against him is that upon search he was in possession of 9.805 kgs. of Ganja. The police accordingly, made seizure list and arrested the petitioner.

On 12.7.2022 when this matter was taken up, upon the attention drawn by the learned counsel for the petitioner that the seizure list attached with the FIR shows that although the police claims to have recovered 'Ganja' from him, the signature of the petitioner is missing on the seizure list.

In the aforesaid circumstances, the learned APP was directed to seek instruction and file a counter affidavit in the matter.

A counter affidavit has been filed on behalf of the opposite party duly sworn by Deputy S.R.P.(H.Q.) Rail, Patna.

The concerned opposite party has accepted that it was mistake on behalf of the concerned Police Officer that the signature of the petitioner was not taken in the seizure list for which departmental action has already been initiated against him vide departmental enquiry (proceeding no. 11 of 2022).

So far as this case is concerned, considering the serious lapse on the part of the police in not having the



signature of the accused persons from whom it alleges to have recovered 9.805 kgs. of Ganja as also the fact that the petitioner has clean antecedent (as stated in para-3 of the application) and further he is in jail since 18.11.2021 (as stated in para-15 of the bail application), this Court is inclined to grant him the privilege of bail. If however, it is found that he do have criminal antecedent, the bail order shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs. 50,000/- (Fifty thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge-Vth, Bhojpur, Ara, in connection with N.D.P.S. Case No. 4 of 2022 arising out of Buxar Rail P.S. Case No. 108 of 2021 subject to the following conditions:

(i) one of the bailors should be the family members of the petitioner, who shall provide official document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for even on one day date without plausible reasons will entail his cancellation of bail by the Trial Court itself;

(iii) he shall appear before the concerned police



station every fortnight for next one year to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

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