

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19557 of 2022

Arising Out of PS. Case No.-161 Year-2021 Thana- MATIHANI District- Begusarai

NITISH KUMAR S/o Bharat Rai Resident of Village- Rachiyahi, Purana Tola, Ward No.-9, P.S.- Matihani, District- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 29-07-2022 Heard learned counsel for the parties through video conferencing in view of the COVID 19.

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

The petitioner is an accused in connection with NDPS Case No. 37 of 2021 arising out of Matihani P.S. Case No. 161 of 2021 under Sections 8 and 20(B), (II)(B) of the NDPS Act.

The allegation in the FIR is of police intercepting the accused persons and recovered/seized 'ganja'. While 5 K.G. of 'ganja' was recovered from the accused namely, Raja Ram Mahato, from this petitioner, it is alleged that 9 K.G. 'ganja' was recovered/seized.

Learned counsel for the petitioner submits that even



accepting the allegation in the FIR, the quantity of 'ganja' comes below the commercial quantity as incorporated in the NDPS Act. He further submits that the house of Raja Ram Mahato was raided and the recovery/seizure was shown from his possession. He further submits that the petitioner has no criminal antecedent and he is in jail since 26.12.2021 (as stated in paragraph-1 of the bail application).

Taking into account the fact that the petitioner is in custody since 26.12.2021, charge sheet stands submitted and he has no criminal antecedent, this court is inclined to grant him the privilege of bail. If however, it is found that he do have criminal, the bail bond shall become infructuous.

Let the petitioner be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of like amount each to the satisfaction of the learned District and Sessions Judge, Begusarai in connection with NDPS Case No. 37 of 2021 arising out of Matihani P.S. Case No. 161 of 2021, subject to the following conditions.

(i) one of the bailor should be the family member 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 two consecutive dates 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 six months 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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