

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32325 of 2022

Arising Out of PS. Case No.-113 Year-2021 Thana- INDUSTRIAL District- Bhagalpur

Mohan Sah Son of Late Sakki Sah Resident of Village - Fatehpur, P.S. - Industrial Area, District - Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Upadhyaya, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 29-08-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Mr. Diwakar Upadhyaya, learned counsel for the petitioner and Mr. Anil Kumar, learned APP for the State are present.

Petitioner seeks regular bail in connection with Industrial Area P.S. case no. 113 of 2021 registered for the offences punishable under Sections 8, 20(b) (ii) (c), 22 of the NDPS Act.

Allegedly, 2 kg narcotic material suspected to be ganja and 3 kg of the same material were recovered from the possession of this petitioner and the co-accused person Ram Pravesh Kumar respectively.

The main submissions advanced by Mr. Diwakar Upadhyaya, learned counsel for the petitioner are that the petitioner has no criminal antecedent and the alleged recovered narcotic material does not come under the purview of commercial quantity and the



petitioner has been languishing in jail since 29.8.2021 and no independent person has been made the witness of the alleged search and seizure and the provisions of sections 42 and 50 of NDPS Act were not followed by the concerned police and the investigation has been completed in respect of the petitioner.

Mr. Anil Kumar, learned APP has opposed the prayer for bail.

Heard both the sides and perused the FIR and the case record. The present case relates to the recovery of alleged narcotic material which has been suspected to be ganja. Though, from the possession of this petitioner 2 kg of the alleged contraband was recovered but as per the statement made at paragraph 9 of his petition without obtaining the FSL report the police submitted the charge sheet against the petitioner for the alleged recovery of contraband. The alleged recovered narcotic material comes under the purview of lesser than commercial quantity and the petitioner has got clean antecedent and he has been languishing in jail since 29.8.2021 and his case appears to be at initial stage of trial. Considering these facts as well as above submissions in the opinion of this Court the petitioner deserves to a lenient approach, 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 the concerned Court in connection with Industrial



Area P.S. case No. 113 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 petitioner 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 of the petitioner is found, then the Court below shall take serious action against him for cancellation of his bail bond.

(Shailendra Singh, J)

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