

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29354 of 2022

Arising Out of PS. Case No.-303 Year-2021 Thana- ADAPUR District- East Champaran

DAWARIKA SAH @ DWARIKA S/o Late Gopi Sah Resident of Village -
Matiyarawa, P.S. Kaleya, District - Kaleya, Nepal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 16-09-2022 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State

through virtual court proceedings.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Adapur
P.S. Case No. 303 of 2021 registered for the offence under
Sections 8 and 20(b)(ii)(B) of the N.D.P.S. Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 20.10.2021.

The allegation against the petitioner is to have in
possession of alleged contraband i.e. Ganja, total of 7.5 Kg,
along with other co-accused persons.

Learned counsel appearing on behalf of the petitioner



submitted that recovery of alleged contraband i.e. Ganja was made collectively from two (2) accused persons and it is not specified that what was the quantity of recovery of contraband from this accused person. It is submitted that compliance of Section 50 of the N.D.P.S. Act, as regard to search upon person, and Section 42 of N.D.P.S. Act were not made in present case. It is further submitted that as alleged quantity of contraband is less than commercial quantity, therefore, provision of Section 37 of N.D.P.S. Act is not applicable in the present case. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent, moreover, investigation of this case is complete, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded that as recovered quantity of contraband is less than commercial quantity.

Considering the facts and circumstances as mentioned above, as compliance of Section 50 of the N.D.P.S. Act appears doubtful in the present case, where recovery of 'Ganja' is less than commercial quantity coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with



Adapur P.S. Case No. 303 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S., East Champaran/concerned court, subject to the following conditions:

“(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be Guddu Sah, who is the Son-in-law (damad) of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

R.S.Sen/-

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