

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33159 of 2022

Arising Out of PS. Case No.-22 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Araria

MD. INTEKHAB HUSSAIN Son of Md. Akhter Hussain Resident of Village
- Ward no.9, Sultanganj Dilgori, P.s.- Sultanganj, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate
For the Opposite Party/s : Mr.Binod Kumar No.3, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 12-09-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

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

The petitioner seeks bail in connection with C.C.
Case No. 22 of 2019 registered for the offence under Section
20(b) of N.D.P.S. Act and under Section 30(a) of the Bihar
Prohibition of Excise (Amendment), Act 2018.

The accused/petitioner is named in the prosecution
report and is in custody since 28.05.2019.

The allegation against the petitioner is to have in
possession of contraband i.e. ‘Ganja’ weighing about 10.242
Kg.



Learned counsel appearing on behalf of the petitioner submitted that alleged recovery of contraband i.e. 'Ganja' was made from back seat of the car and not from the conscious physical possession of the petitioner. It is submitted that compliance of Section 42 and 50 of the N.D.P.S. Act were not made in this case. It is further submitted that as recovered quantity is less than commercial quantity, provision of Section 37 of the 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 has been completed long back, 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 recovered quantity of contraband is less than commercial quantity, which is about 10.242 Kg of Ganja.

Considering the facts and circumstances as mentioned above, as compliance of Section 50 of N.D.P.S. Act appears to be doubtful, where recovery of alleged contraband i.e., '*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 C.C. Case No. 22 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Session Judge, Araria/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 Md. Aftab Hussain, who is the cousin of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

R.S.Sen/-

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