

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44655 of 2022

Arising Out of PS. Case No.-8 Year-2022 Thana- BIRPUR District- Supaul

Mahendra Rohita Son of Late Deo Narayan Rohita R/O Village- Lalpur, Ward
No. 12, P.S.- Birpur (BHIMNAGAR), Distt.- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-09-2022 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 Birpur
(Bhimnanar O.P.) P.S. Case No. 08 of 2022 registered for the
offence under Sections 8/20(b)(ii) A/21(c) of N.D.P.S. Act, u/s
30(a) of the Bihar Prohibition and Excise Act and U/Ss-25(1-
B)a/26/35 of Arms Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 06.01.2022.

The allegation against the petitioner is to involve in
trade activities of narcotics drugs where recovery of 4.1 kg of
contraband i.e. Ganja was made from the cow-shed, along with



one bottle of vodka and, country made loaded pistol, one magazine loaded with two cartridges, 2830 piece capsule of Spasmo Proxyvon (Plus) and unexplained cash of Rs. 5,08,300/-.

Learned counsel appearing on behalf of the petitioner submitted that petitioner falsely implicated in present case only being father of the main co-accused namely, Chandan Rohita and Abhinandan Rohita in connection with whom raid was conducted at the house/cowshed of the petitioner. It is submitted that alleged recovery of Ganja, liquor and country made pistol along with live cartridges were made from cowshed/house of this petitioner, which is accessible by other family members and, as such, it cannot be said to be recovered from conscious physical possession of this petitioner. It is also submitted that as recovered contraband is less than commercial quantity section 37 of the N.D.P.S. Act is not applicable in present case. It is further submitted that compliance of Section 50 of N.D.P.S. Act, as regard to search upon the person, was also not complied with. While concluding the argument, it has been submitted that investigation has been completed, 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 Ganja is 4.1 kg, which is less than commercial quantity.

Considering the facts and circumstances as mentioned above, as alleged recovery of contraband, liquor and fire arms were not appears to be made from conscious physical possession of this petitioner, in the background, where alleged contraband i.e. Ganja is less than commercial quantity coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with Birpur (Bhimnanar O.P.) P.S. Case No. 08 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned In-charge Special Judge, Excise, Court no-02, Supaul/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Pooja/-
Archana/-

U		T	
---	--	---	--

