

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45099 of 2022**

Arising Out of PS. Case No.-211 Year-2022 Thana- MANJHAGARH District- Gopalganj

SONAMATI DEVI W/o- Sawaminath Sah @ Swami Sah R/o- Village -
Shahpur, P.S.- Manjhagarh, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pritish Ranjan, Advocate.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 20-10-2022 Today this case has been listed on the urgent motion
slip filed by the learned counsel for the petitioner.

Learned counsel for the petitioner is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

A supplementary affidavit has been filed on behalf of
the petitioner and the same has been kept on record.

Heard Mr. Pritish Ranjan, learned counsel for the
petitioner as well as learned Additional Public Prosecutor for the
State.

The application for grant of bail to the petitioner,
above named, who has been made accused and put behind the
bar in connection with Manjhagarh P. S. Case No. 211 of 2022
registered for the offences punishable under Sections 8, 20, 22,



29 of the Narcotic Drugs And Psychotropic Substances Act.

As per the prosecution case, it is alleged that the police on a secret information with regard to sell of ganja and smack, raided the place of occurrence and apprehended the petitioner. On search, 1.190 Kg. Ganja and 23 gram smack was recovered from her possession. It is also alleged that the cash of Rs. 20,360/- was also recovered from her possession.

Learned counsel appearing on behalf of the petitioner submitted that nothing has been recovered from the person or possession of the petitioner. In fact, on the fateful day some persons involved in the crime were present at the place of occurrence, however, noticing the police party, they succeeded in fleeing away and unfortunately, the petitioner was apprehended from the place of occurrence and her name has been implicated in this case, showing the recovery from her possession. It is also submitted that from the seizure list, it is evident that the alleged recovered contraband substance is, though, more than small quantity but much lesser than commercial quantity and as such, the rigours provided under Section 37 of the N.D.P.S. Act would not be applicable in the present case. It is further submitted that admittedly, the police after investigation submitted charge sheet without obtaining the



F.S.L. report, which also makes the entire investigation doubtful as neither the Forensic Science Laboratory report has been obtained as to whether contraband substance was actually ganja/heroin or otherwise. The reliance has been made to the order passed by the learned coordinate Bench of this Court rendered in the case of Cr. Misc. No. 21326 of 2021 whereby the learned coordinate Bench has held that in the case under N.D.P.S. Act mere filing of charge sheet in absence of F.S.L. report does not justify incarceration of the petitioner in custody. While concluding the submissions, he next submitted that the petitioner being a lady, having fair antecedent and she has never been found involved in such kind of crime any time before, apart from the fact the police has submitted charge sheet and there is no chance of absconding of the petitioner or tampering with the evidences. It is last submitted that the petitioner is ready to give undertaking that she will remain present during the cause of trial and would render all her assistance whenever her presence is required.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that the recovery of contraband substance has been made from conscious possession of the petitioner along with the cash



amount, which shows that she was indulged in selling of contraband substance, apart from the fact that materials collected during the course of investigation also suggest her involvement in the present crime and only because of the fact that the petitioner being lady, she does not deserve the privilege of bail.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the alleged recovered contraband is, though, more than small quantity but much lesser than commercial quantity and as such, the rigours provided under Section 37 of the N.D.P.S. Act would not be applicable in as much as the charge sheet has been submitted without obtaining the F.S.L. report and the petitioner being a lady, having fair antecedent, is in custody since 02.07.2022, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 35,000/- (Rupees thirty five thousand) with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge, Gopalganj in connection with Manjhagarh P. S. Case No. 211 of 2022, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the



trial.

- (ii) She will remain present on each and every date of trial till disposal of the case.
- (iii) She will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, her bail bonds will liable to be cancelled.

(Harish Kumar, J)

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