

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 65044 of 2021**

Arising Out of PS. Case No.-112 Year-2021 Thana- ATHMALGOLA District- Patna

MUNKIYA DEVI Wife of Maheshwar Sah Resident of Village- Sabnima,
P.S.- Athmal Gola, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr Rudra Deo, Advocate

For the Opposite Party/s : Mr Md Iftekhar Mahmood, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

2 15-04-2022 Heard learned counsel for the petitioner and learned Additional Public Prosecutor (for brevity, *APP*) appearing for the State of Bihar through Virtual Mode.

The petitioner seeks bail in Special Case No 58 of 2021 arising out of Athmalgola Police Station (for brevity, *PS*) Case No 112 of 2021 instituted for the offence punishable under Sections 20 (b) (ii) (B)/22 of Narcotic Drugs and Psychotropic Substances Act.

1.560 Kilograms of Ganja has been recovered from the petitioner's tea shop, as per allegation made in the First Information Report (for brevity, *FIR*).

Learned counsel submits that the petitioner is a female, having no criminal antecedent. Alleged recovery is just



more than small quantity, and much less than commercial quantity. From the allegations made in the FIR and the seizure list, it is obvious that alleged recovery is from petitioner's shop and not from her possession. She was not present at the time and place of recovery which is evident from the fact that neither her Left Thumb Impression (for brevity, *LTI*) nor signature has been obtained. The recovery, therefore, if any, is behind her back. The petitioner was later on arrested from her house on the same day. She is in custody since 09.06.2021.

The learned APP has opposed the prayer for bail. It is submitted that though the recovery is much less than commercial quantity, the fact remains that it has been recovered from the petitioner's tea shop.

On perusal of the seizure list, copy of which has been enclosed with the bail application, this Court would find that petitioner's LTI or signature is not available on the same. The said fact lends credence to the submission of the petitioner's counsel made in support of prayer for bail.

Considering the rival submissions, the fact that petitioner being a female and is in custody since 09.06.2021, without any criminal antecedent, this Court, for the purposes of grant of bail, is, thus, inclined to accept the submissions



advanced by the petitioner's counsel. Prayer for bail is allowed. Let the petitioner, above named, be released on bail on her furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge, Patna in Special Case No 58 of 2021 arising out of Athmalgola PS Case No 112 of 2021 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if she fails to do so on two consecutive dates, her bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

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