

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61592 of 2022

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

Abhinandan Rohita @ Abhinandan Yadav s/o Mahendra Rohita r/v- lalpur,
ward no.- 12, P.S.- Birpur, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 61750 of 2022

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

Chandan Kumar @ Chandan Rohita son of Mahendra Rohita r/v- lalpur, ward
no. 12, P.S- Birpur, Dist- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 61592 of 2022)

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

For the Opposite Party/s : Mr.Nagendra Prasad, APP

(In CRIMINAL MISCELLANEOUS No. 61750 of 2022)

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

For the Opposite Party/s : Mr.Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 02-12-2022 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 Birpur



(Bhimnagar 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/S-25(1-B)a/26/35 of Arms Act.

The accused/petitioner is named in the F.I.R. and is in custody since 24.05.2022.

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 son of the main co-accused namely, Mahendra Rohita. It is submitted that from the seizure list it can be safely gathered that raid was conducted at the house/cowshed of the co-accused, Mahendra Rohita where petitioner implicated only being his son. It is submitted that alleged recovery of Ganja, liquor and country made pistol along with live cartridges were made from cowshed/house of co-accused, 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.

In view of 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 (Bhimnagar 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 Exclusive Special Judge, Excise, Court no-02, Supaul/concerned Court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

In Cri. Misc. No. 61750 of 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 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/S-25(1-B)a/26/35 of Arms Act.

The accused/petitioner is named in the F.I.R. and is in custody since 23.07.2022.

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 son of the main co-accused namely, Mahendra Rohita. It is submitted that from the seizure list it can be safely gathered that raid was conducted at the house/cowshed of the co-accused, Mahendra Rohita where petitioner implicated only being his son. It is submitted that alleged recovery of Ganja, liquor and country made pistol along with live cartridges were made from cowshed/house of co-accused, 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.

In view of 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 Exclusive 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)

R.S.Sen/-

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

