

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2523 of 2023

Arising Out of PS. Case No.-378 Year-2022 Thana- GAYA RAIL P.S. District- Gaya

Utkarsh Saini Son of Rajiv Bharti Saini @ Rajiv Bharti R/o Village- Akbarpur
Chaugawan, P.S.- Nazibabad, District- Bijnour (U.P.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No.2, Adv.

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

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 27-04-2023 Heard Mr. Manish Kumar No.2, learned counsel

appearing on behalf of the petitioner and Mr. Mritunjay Kumar

Nirala, learned Additional Public Prosecutor for the State.

The petitioner seeks regular bail, who is in custody in
connection with Gaya Rail P.S. Case No. 378 of 2022 registered
for the offences punishable under Sections 8 and 20(b)(ii)(B) of
the Narcotic Drugs and Psychotropic Substances Act.

As per the prosecution case, it is alleged that the
police on a secret information regarding smuggling of
intoxicated substance, conducted raid in the train and two
persons including the petitioner was apprehended. It is further
alleged that from the possession of the petitioner, 2 Kg. *ganja*
like substance was recovered.

Learned counsel for the petitioner submits that the



bag from which *ganja* was allegedly recovered, does not belong to the petitioner and moreover it is much below the commercial quantity and, as such, the rigorous provided under Section 37 of the NDPS Act would not be applicable in this case. He further submits that the co-accused from whose possession, 3.9 Kg. *ganja* was recovered, has been allowed the privilege of bail by the learned Co-ordinate Bench of this Court vide order dated 06.04.2023 passed in Cr. Misc. No. 4700 of 2023. He next submits that the petitioner having no criminal antecedent is in custody since 19.09.2022 and, surprisingly, the charge-sheet has been submitted without obtaining the FSL report. He also submits that there is complete defiance of Section 50 of the NDPS Act, apart from the other irregularities.

On the other hand, learned counsel for the State opposes the bail application and submits that the recovery has been made from the conscious physical possession of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the quantity of the recovered *ganja* like substance, coupled with the fact that co-accused has been allowed the privilege of bail, apart from other irregularities, let the petitioner, named above, be released



on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, NDPS Act, Gaya in connection with Gaya Rail P.S. Case No. 378 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He 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, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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