

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5529 of 2022

Arising Out of PS. Case No.-3 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

MADAN KUSHWAHA S/o Rajvanshi Kushwaha @ Rajbanshi Prasad R/o
village- Rupahi Bada, Khaira Tola, P.S.- Bhitha, District- West Champaran
... .. Petitioner/s

Versus

1. The State of Bihar
2. The Inspector, State Excise, Nawada. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bindhyachal Singh,Senior Adv.
Mr.Vipin Kumar Singh,Adv.
For the Opposite Party/s : Mr.Mohammed Arif,APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 31-01-2023 Heard the learned senior counsel for the
petitioner and the learned APP for the State.

The present petition is by way of third attempt at the behest of the petitioner for grant of bail in connection with N.D.P.S. Special Case No.03 of 2019, under Section 20(b) of the N.D.P.S. Act, inasmuch as the earlier petitions of the petitioner for grant of bail have all been rejected by co-ordinate Benches of this Court vide orders dated 25.02.2020 and 13.10.2020 passed in Criminal Miscellaneous No.77261 of 2019 and Criminal Miscellaneous No.23392 of 2020 respectively.

The allegation is regarding recovery of



102.210 kg of *ganja* from a car and the petitioner was arrested from the said car.

The learned senior counsel for the petitioner has submitted that the petitioner is languishing in custody since 24.01.2019, and there is no progress, whatsoever, in the ongoing trial.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail and by referring to the report sent by the Director, Forensic Science Laboratory, Bihar, Patna, dated 26.02.2021, has submitted that the result of examination is as under:-

“The dry, pressed, greenish brown, flowering and fruiting vegetable like substances contained in the plastic container marked G1- G49 as described above were found to be Ganja containing Tetra Hydro Cannabinol (T.H.C.) as their chief intoxicating ingredient.

GANJA is a flowering and fruiting tops of the female plant of cannabis sativa.”

Hence, it is submitted that there is no change in circumstance, so as to warrant reconsideration of the prayer of the petitioner for



grant of bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties, taking into account the materials available on record and considering the fact that the quantity of ganja seized is much more than the commercial quantity, as defined in the schedule notified under the provisions of the NDPS Act, 1985, as also considering the stringent provisions contained under Section 37(1)(b) of the NDPS Act, 1985, apart from the fact that there is no change in circumstance, so as to warrant reconsideration of the case of the petitioner for grant of bail, I do not find any merit in the present petition, hence, the present petition stands dismissed.

(Mohit Kumar Shah, J)

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