

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7199 of 2023

Arising Out of PS. Case No.-259 Year-2022 Thana- KOCHADHAMAN District- Kishanganj

Maksaidul Miya @ Makchhandul Miya @ Makechhen Miya S/O Amchar Ali
Miyan Resident of village- Panimara Kutti, P.S.- Cochbihar, District-
Cochbihar (W.B.),

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate

For the Opposite Party/s : Mr. Satya Nand Shukla, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 03-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
11.10.2022 in connection with Kochadhaman P.S. Case No. 259
of 2022, F.I.R. dated 10.10.2022 for the offences punishable
under Sections 8/20(b)(ii), B, 22, 23, 29 of the N.D.P.S. Act.

Recovery is of 07 Kg. Ganja from the vehicle in
question.

Learned counsel for the petitioner submits that
petitioner has clean antecedents and he has falsely been
implicated in the present case. He further submits that the
allegation as alleged in the F.I.R. is false and fabricated and it
appears from the F.I.R. itself that nothing has been recovered



from the conscious possession or the house of the petitioner rather the recovery has been made from the vehicle in question. He further submits that there is non-compliance with mandatory procedure prescribed for recovery under Section 100 of Cr.P.C.. He further submits that the recovered contraband is less than the commercial quantity but more than the small quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 11.10.2022.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Ganja, which is as under :-

“RESULT OF EXAMINATION

The dry, pressed, greenish brown flowering and fruiting vegetative like substances contained in the plastic dibba (S1) as described above was found to be GANJA containing Tetrahydro Cannabinol (T.H.C.) as their chief intoxicating ingredients.

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



Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-cum-Special Judge, (N.D.P.S. Act), Kishanganj in connection with Kochadhaman P.S. Case No. 259 of 2022 , subject to the following conditions:-

1. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail



bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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