

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9807 of 2023**

Arising Out of PS. Case No.-97 Year-2022 Thana- BALIA BELON District- Katihar

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AMIT KUMAR YADAV S/O Naresh Yadav R/O Village- Garaiya, P.S-
Chousa, District- Madhepura

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh, Adv.

For the Opposite Party/s : Mr. Shyameshwar Dayal, APP

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

5 08-08-2023 1. Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner, who is in custody since 06.08.2022 seeks
bail, in connection with N.D.P.S. Case No. 32/2022, arising out of
Balial-Belon P.S. Case No. 97/2022, dated 05.08.2022, for the
offences punishable under Sections 20(b), 21(b) of the N.D.P.S. Act.

3. According to prosecution case, altogether 13.632 kg of
ganja has been recovered from the possession of the co-accused
persons and 3.038 kg of ganja has been recovered from the
possession of the petitioner.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been implicated in
the present case. He further submits that from perusal of the F.I.R. as
well as seizure list, it appears that altogether 13.632 kg of ganja has
been recovered from the possession of the petitioner and other co-



accused persons and only 3.038 kg of ganja has been recovered from the possession of the petitioner. There is non-compliance of section 50 of the N.D.P.S. Act and the recovered contraband is less than the commercial quantity, so, there is no embargo under Section 37 of the NDPS Act to enlarge the petitioner on bail and co-accused, namely, Md. Munim @ Md. Munem has been granted bail by a co-ordinate Bench of this Court vide order dated 23.12.2022 passed in Cr. Misc. No. 57725/2022 and another co-accused, namely, Manish Kumar Yadav has been granted bail vide order dated 18.04.2023 passed in Cr. Misc. No.10404/2023 and the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 06.08.2022.

5. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report also confirms that the recovered contraband is Ganja.

6. 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 Additional District and Sessions Judge-IV, Katihar in connection with N.D.P.S. Case No.32/2022, arising out of Balia-Belon P.S. Case No. 97/2022, 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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