

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14566 of 2023

Arising Out of PS. Case No.-133 Year-2022 Thana- KUNDWACHAINPUR District- East
Champaran

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VISHAL KUMAR S/O HIRALAL SAH R/v- Kharua, P.S.- Kundwa
Chainpur, district- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. THE UNION OF INDIA, N.D.P.S. Act

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dharmendra Kumar Singh, Advocate
For the Opposite Party/s : Mr.Mukesh Kumar Singh,APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 11-09-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. Petitioner seeks bail, who is in custody since
17.06.2022 in connection with Kundwa Chainpur P.S. Case No.
133 of 2022, F.I.R. dated 17.06.2022 for the offences punishable
under Sections 399/402 of the Indian Penal Code and Sections
20(b)ii/23(b)/25 of N.D.P.S.Act.

3. On search, in the pocket of petitioner, one knife,
two mobile phone and from bag Ganja near about 1 Kg and 500
Gm was recovered.

4. Learned counsel appearing for the petitioner
submits that the petitioner is innocent and he has falsely been
implicated in the present case. He further submits that from a



bare perusal of the FIR as well as seizure list that one knife, two mobile phone and 1 Kg and 500 Gm of Ganja have been recovered from possession of the petitioner. Learned counsel for the petitioner submits that there is non-compliance of Sections 42 and 50 of the N.D.P.S. Act and without F.S.L. report, the police has filed the chargesheet against the petitioner and the recovered contraband is less than the commercial quantity so there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail and the F.S.L. report dated 02.09.2023 and the chargesheet has been filed prior to the F.S.L. report and the petitioner is in custody since 17.06.2022.

5. Learned A.P.P. 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 confirms that the recovered contraband is Ganja and apart from the aforesaid, the petitioner carries four more cases other than the present one.

6. Considering the aforesaid facts and period of custody, 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 learned Addl. Sessions Judge-V, East Champaran, Motihari in connection with Kundwa Chainpur P.S. Case No. 133 of 2022



with the following conditions:-

(I) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) 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.

(III) 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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