

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18709 of 2023

Arising Out of PS. Case No.-170 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Md Mumtaz, aged about 39 years, Male, S/O- Md Shamsheer Sah, resident of
Village- Naya Tola Shahwaz Nagar Fatehpur, P.S.- Zero Mile Sabaur Dist-
Bhagalpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Ashok Kumar Mishra, Advocate

For the Opposite Party : Mr. Dr.Mrityunjaya Kr.Gautam, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 05-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with N.D.P.S.
Case No. 14 of 2018, arising out of Excise Case No. 170 of
2018 registered for the offence under Sections 20(b) of the
N.D.P.S. Act.

The prosecution case, in brief, is that 85 kgs., Ganja is
said to have been recovered from the car on which the petitioner
was found to be sitting.

This is fourth attempt on behalf of the petitioner for
grant of bail.

Earlier bail applications of the petitioner were rejected
vide Cr. Misc. No. 16496 of 2019 under order dated 16.04.2019,



Cr. Misc. No. 2640 of 2021 under order dated 24.03.2021 and Cr. Misc. No. 64666 of 2021 under order dated 16.02.2022 by a Bench of this Court, annexed as Annexure-1 series to the present bail application taking into account that 85 kgs. Ganja is said to have been recovered from the car and the petitioner was not entitled for grant of bail in light of Section 37 of the N.D.P.S. Act.

A report was called for from the learned court below regarding the present stage of the case. It has been reported that out of five prosecution witnesses, four prosecution witnesses have already been examined.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 10.05.2018. He has remained in custody for more than five years. The petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The contraband in question is said to have been recovered from the car. There is no recovery from the conscious possession of the petitioner. The petitioner had no knowledge regarding the contraband kept in the car. Learned counsel for the petitioner has further relied upon the case of *Mohd. Muslim @ Hussain Versus State (NCT of DELHI)* passed in *Cr. Appeal No(s). 943 of 2023*, arising out



of *Special Leave Petition (CRL.) No(s). 915 of 2023* rendered by Hon'ble Supreme Court. It has further been pointed out that the Hon'ble Supreme Court considered Section-37 of the N.D.P.S. Act, and taking into account multiple factors, granted bail to the accused. The case of the petitioner comes within the purview of the judgment as referred above.

Considering the same and coupled with the fact that there is no chance of the trial being concluded in near future and the petitioner has remained in custody for more than five years, let the petitioner, above named, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-Ist, Gaya in connection with N.D.P.S. Case No. 14 of 2018, arising out of Excise Case No. 170 of 2018.

Further, the petitioner shall be present on each and every date before the learned trial court. If he fails to appear on two consecutive dates, learned court below will be at liberty to cancel the bail bonds of the petitioner.

(Sudhir Singh, J)

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