

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22220 of 2023

Arising Out of PS. Case No.-52 Year-2023 Thana- GURUA District- Gaya

Mukesh Kumar, Son of Yadunandan Mallah, Resident of village - Mallah Toli, P.S.- Gurua, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No.2, Advocate

For the Opposite Party/s : Mr.Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 19-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Gurua P.S. Case No. 52 of 2023, registered for the alleged offences under Section 18 (b) of NDPS Act.

3. As per prosecution case, the police received secret information about cultivation of opium plants. A raid was conducted and the petitioner was apprehended and at the instance of the petitioner the identified place was searched and a number of opium plants were uprooted. Allegedly opium was being cultivated in 22 decimals of land.

4. The learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The land on which the opium plants are stated to have been



cultivated and seized does not belong to this petitioner and the land belongs to one Ramjanam Singh and this petitioner has no concern with the said land. Even the witnesses examined during investigation have not supported the allegation against the petitioner. The police has not mentioned about the quantity of the contraband seized from the land said to be cultivated by this petitioner. This makes the prosecution case suspect. The learned counsel further submits that even the search and seizure list is suspect as at the top of the seizure list, P.S. case number has been mentioned which clearly shows that the same has not been prepared at the place of occurrence. Rather the same has been prepared in the police station after institution of the FIR. The learned counsel further submits that moreover if the plants were being cultivated for *Posta Dana*, it would not come under the purview of the NDPS Act. There is no compliance of Section 100 Cr.P.C. as the witnesses are all police officials. The petitioner is in custody since 02.02.2023 and the charge sheet has been submitted.

5. Learned APP opposes the prayer for bail submitting that the petitioner is having criminal antecedent of one case.

6. Having regard to the facts and circumstances of the case and submissions made hereinabove and considering the lack of material regarding quantity of the contraband seized and



further considering the lack of information about the ownership of the land and also considering the period of custody of the petitioner along with submission of charge sheet, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, NDPS Act, Gaya, in connection with Gurua P.S. Case No.52 of 2023, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the petitioner will be liable to be cancelled by the court concerned.

V.K.Pandey/-

(Arun Kumar Jha, J)

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