

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23016 of 2023**

Arising Out of PS. Case No.-716 Year-2021 Thana- KHAGARIA District- Khagaria

Manish Kumar @ Lukhra Son of Late Triveni Singh R/V- Sanhauli, PS-
Chitraguptanagar, Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar Agrawal, Advocate

For the Opposite Party/s : Mr. Kalyan Shankar, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER**

2 22-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Special Case No. 06 of 2021 arising out of Khagaria (Chitragupta Nagar) P.S. Case No. 716 of 2021 registered on 09.09.2021 for the alleged offences under Sections 420, 406/31 of the Indian Penal Code and 8/20(b)(ii)b/22 of the NDPS Act.

3. As per prosecution case, co-accused Nagan Pandit lodged a report with police against the petitioner and other co-accused persons for snatching a bag from him containing Rs. 48,000/- and a mobile phone. On further investigation by the police, the petitioner and other co-accused persons were apprehended and they told the police about the bag which was



snatched by them did not contain the money rather it contained 3 kgs of *ganja* which these persons concealed in the bushes in the house of one Rampukar Sahni. At the instance of the petitioner and other co-accused persons recovery of 3kg 300 gms of *ganja* was made. The petitioner and co-accused were charged by the police for not bringing the fact of possession of *ganja* by co-accused Ratan Pandit to the cognizance of the police and trying to dispose of the *ganja* and in this manner being involved in the trafficking of the contraband.

4. Learned counsel for the petitioner submits that petitioner is innocent and has been falsely implicated in this case. The petitioner has no concern with the allegedly seized *ganja*. The whole prosecution story is based on the statement of the police personnel and no sanctity can be attached to it. Moreover, the recovery shown is of 3kg 300 gms which is less than the commercial quantity. No chemical/FSL report has been obtained by the police and it is a case based on presumption that the seized contraband is *ganja*. There has been no compliance of mandatory provisions of Sections 42, 50 and 57 of the NDPS Act. No evidence has come up on record to show that petitioner was involved in purchase and sale of the seized contraband. Charge-sheet has been submitted, but it is without FSL report.



Similarly placed co-accused Kishan Kumar has been granted bail by a Coordinate Bench of this Court vide order dated 06.07.2022 passed in Cr. Misc. No. 67744 of 2021. The petitioner is in custody since 10.09.2021 and charge sheet has been submitted. The petitioner has got no criminal history.

5. Learned APP opposes the prayer for bail.

6. Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the nature and quantity of contraband recovered and further considering the grant of bail to similarly placed co-accused by a Coordinate Bench along with the period of custody of the petitioner and submission of charge sheet against him, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-Vth-cum-Special Judge NDPS, Khagaria/court concerned in connection with Special Case No. 06 of 2021 arising out of Khagaria (Chitragupta Nagar) P.S. Case No. 716 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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 bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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