

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22967 of 2023

Arising Out of PS. Case No.-369 Year-2021 Thana- BAJPATTI District- Sitamarhi

Sheo Shankar Sahni, Son of Shri Ravindra Sahni, R/o Village and P.S.-
Sursand, District- Sitamarhi

... .. Petitioner

Versus

1. The State of Bihar
2. The Union of India, through the Secretary, Ministry of Home, Narcotic
Drugs Control Bureau, New Delhi.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 03-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The accused/petitioner seeks bail in connection
with Bajpatti P.S. Case No.369 of 2021 registered for the
offences punishable under Sections 399, 402, 413, 414 of the
Indian Penal Code and Sections 25(1-B)a, 26 and 35 of the
Arms Act as well as Sections 8, 20(b)(ii)(c) and 22 of the
Narcotic Drugs and Psychotropic Substances Act (for short
'N.D.P.S. Act').

3. The accused/petitioner is named in the FIR and is
in custody since 28.12.2021.

4. Allegation against the petitioner is to involve in



preparation for committing dacoity and while preparing so, found in possession of about 1 kg charas like substances wrapped in black polythene.

5. It is submitted by learned counsel that merely on the basis of recovery of narcotic substances i.e. charas like substances in present case, petitioner cannot be implicated with preparation for committing dacoity as for the same a different legal ingredients are required to be established for a *prima facie* case. It is submitted that as per seizure list, weight of contraband is about 1 kg, which clearly suggest that same was not measured to ascertain the quantity while preparing before the seizure list and moreover same appears to be wrapped in black polythene and if any weight for said polythene be deducted from the recovered quantity certainly, it would come to less than commercial quantity for seized contraband. It is further submitted that in this way implication of Section 37 of the N.D.P.S. Act not appears to be applicable in present case. While concluding argument, it is submitted that the petitioner found involved in 10 more criminal cases, where in four cases he has already acquitted and in remaining 6 cases, he is on bail and moreover investigation of this case has been completed, for which, charge-sheet has been submitted and, as such, there is no



chance of tampering with the evidence.

6. Learned APP while opposing the prayer for bail fairly conceded that the contraband appears to be less than commercial quantity as per seizure list.

7. In view of above-mentioned facts and circumstances and by taking note of fact as implication with preparation for committing dacoity appears *prima facie* only due to recovery of contraband, where alleged quantity appears less than commercial quantity, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 28.12.2021, accordingly, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-III-cum-Special Judge, N.D.P.S. Act, Sitamarhi in connection with Bajpatti P.S. Case No.369 of 2021, subject to the conditions as laid down under Section 437(3) of the CrPC and with further conditions:-

(i) That petitioner shall not involve in any nature of criminal case till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That petitioner shall co-operate in the



trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J.)

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