

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23019 of 2023

Arising Out of PS. Case No.-391 Year-2022 Thana- CHHAURADANO District- East
Champaran

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UPENDAR PRASAD @ UPEN PRASAD SON OF LATE DURGALAL
PRASAD R/O JUAFFAR, P.S.- CHHAURADANO, DISTRICT- EAST
CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwari

For the Opposite Party/s : Mr.Satyendra Narayan Singh

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 18-05-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
Chhauradano P.S. Case No. 391 of 2022 registered for the offences
punishable under Sections 8/20 (b) (ii) (A) 23 (a) of the N.D.P.S.
Act.

As per prosecution case, petitioner is said to have
kept 500 gram Ganja like substance in his Sweater and he is
apprehended on the spot.

Learned counsel for the petitioner submits that
petitioner is in custody since 24.11.2022 and bears one criminal
antecedent which is not similar to the present case. Charge sheet
has been submitted in the case and there is no likelihood of



tampering with the prosecution evidence. He further submits that petitioner is named accused alongwith other 46 accused and 256 unknown accused in Chhauradano P.S. Case No. 299/21 in which the informant and the police is unable to catch the petitioner for more than one year and to just take revenge the police malafidely planted ganja in the pocket of the petitioner. He further submits that petitioner is aged about 58 years old and earlier no such type of case has been lodged against the petitioner. Petitioner is quite innocent and has committed no offence and he has falsely been implicated in the present case. No incriminating article has been recovered from the conscious and physical possession of the petitioner. He further submits that the alleged recovery of ganja is 500 gm which is less than small quantity as 1000 gm ganja comes under the purview of small quantity, as per N.D.P.S. notification.

The learned A.P.P. for the State opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case, period of custody, charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like



amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran, Motihari in connection with Chhauradano P.S. Case No. 391 of 2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) If the petitioner is found involved in similar nature of offences in future, the learned trial court shall be at liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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