

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27129 of 2023

Arising Out of PS. Case No.-479 Year-2022 Thana- MALSALAMI District- Patna

Manish Kumar S/O- Ashok Paswan @ Ashok Kumar Village- Gulmahia chak
Sabalpur Ps- Nadi Dist- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dileep Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Despite of number of indulgence, the F.S.L. report
has not been received as yet.

3. Petitioner seeks bail who is in custody since
29.09.2022 in connection with Malsalami P.S. Case No. 479 of
2022, F.I.R. dated 28.05.2022 for the offences punishable under
Sections 399, 402 and 412 of the Indian Penal Code, Sections
25(1-b)a, 26 and 35 of the Arms Act and Sections 8/20(b) (ii)B
of the N.D.P.S. Act.

4. According to prosecution case, 1.185 kg Ganja, one
country made loaded pistol and one smart phone along with Rs.
2,000/- have been recovered from the possession of the
petitioner.



5. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that 1.185 kg Ganja, one country made loaded pistol and one smart phone along with Rs. 2,000/- have been recovered from the possession of the petitioner. He further submits that there is non-compliance of the mandatory provision of Section 50 of the N.D.P.S. Act as well as Section 100 of Cr.P.C. He further submits that without the F.S.L. report, the prosecution had filed the charge sheet against the petitioner and other accused persons and it appears that the recovered contraband is less than the commercial quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that the similarly situated co-accused, namely, Deepak Kumar from whose possession 1.225 kg of Ganja like substance has been recovered has been granted bail by a Co-ordinate Bench of this Court vide order dated 26.06.2023 passed in Cr. Misc. No. 31974 of 2023 and another co-accused, namely, Suraj Kumar has also been granted bail by a Co-ordinate Bench of this Court vide order dated 11.04.2023 passed in Cr. Misc. No. 7142 of 2023. He further submits that the police after investigation submitted the



charge sheet against the petitioner without the F.S.L. report. The petitioner is in custody since 29.09.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries one criminal antecedent other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in the said case.

7. Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge XVIII, Special in connection with Malsalami P.S. Case No. 479 of 2022, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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