

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28437 of 2023

Arising Out of PS. Case No.-14 Year-2023 Thana- ADAPUR District- East Champaran

Sonu Jaiswal Son of Jai Prakash Jaiswal Resident of Village - Mishra Nagar,
Dankan Road, Ward No. 04, P.S - Raxaul, Distt. - East Champaran (Bihar)

... .. Petitioner/S

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tejendra Sinha, Advocate

For the Opposite Party/s : Md. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 20-07-2023 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State.

2. Let the defect(s), if any, be removed within a
period of four weeks from today.

3. The petitioner seeks bail in connection with
Adapur P.S. Case No. 14 of 2023 registered for the offence
under Section 414 of the Indian Penal Code and under Section
8/20(b)(ii)B of the N.D.P.S. Act.

4. The accused/petitioner is named in the F.I.R. and
is in custody since 23.01.2023.

5. The allegation against the petitioner is to have in
possession of 10 Kg. of contraband i.e., Ganja.

6. Learned counsel appearing on behalf of the
petitioner submitted that the recovery of alleged contraband i.e.,



Ganja was made from the *dickky* of motorcycle, where petitioner took lift for a local destination. It is submitted that the owner of motorcycle ran away, whereas petitioner apprehended on spot. It is submitted that nothing surfaced during the course of investigation, which may suggest that petitioner was aware about carrying contraband i.e., Ganja. It is further submitted that the legal provisions as mandatory under law not appears to be followed regarding sampling and seizure of contraband i.e., Ganja. It is also submitted that as recovered quantity is less than commercial quantity therefore, Section 37 of N.D.P.S. Act not appears applicable in present case. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above, and by taking note of the fact as recovery of contraband i.e. Ganja, which is less than commercial quantity not appears to be made, *prima facie*, from conscious physical possession of this petitioner coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since



23.01.2023, accordingly, above named petitioner is directed to be released on bail in connection with Adapur P.S. Case No. 14 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/Special Judge, East Champaran, Motihari/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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