

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32448 of 2023

Arising Out of PS. Case No.-25 Year-2008 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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SUDAMA MAHTO @ SUDAMA PRASAD Son of Anugrah Mahto R/V-
Pathra, PS- Imamganj, dist-Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Surrendra Kumar Singh, Sr. Adv.
Mr.Praveen Prakash, Adv.
For the Opposite Party/s : Mr.Sanjay Kumar Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 26-07-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with N.D.P.S.
Case No. 12 of 2008 arising out of Excise Case No. 25 of 2008
registered for the offence under Sections 8(b), 15 and 18 of the
NDPS Act.

Recovery is of 3870 opium plants.

Learned senior counsel appearing for the petitioner
submits that the petitioner, who is of clean antecedent, is
innocent and has falsely been implicated in this case. He further
submits that the petitioner was not present at the place of
occurrence from where the alleged recovery has been made
rather he was residing in Mumbai for his livelihood since 2005.
He further submits that the petitioner has been made accused in



this case only for the reason that he happens to be one of the co-sharer of the land from which the plant in question have recovered. The petitioner has no concern at all with the alleged recovery. The petitioner is rotting in judicial custody since 13.03.2021.

A report with regard to present stage of the trial has been called for by this Court vide order dated 17.05.2023 which has been received and forms part of this application at Flag-A. On perusal thereof, it would reveal that out of seven prosecution witnesses, none of them have been examined as yet.

Learned senior counsel appearing for the petitioner referring to the aforesaid report submits that the trial of this case is not likely to be concluded in near future and the petitioner is languishing in judicial custody since 13.03.2021.

Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner.

Considering the facts and circumstances of the case and also the present stage of the trial as reported in the report received from the trial court and the period of custody, let the, above named, petitioner 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 learned Additional Sessions Judge-1st, Gaya in connection with N.D.P.S. Case No. 12 of 2008



arising out of Excise Case No. 25 of 2008 with the following conditions:-

(1) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) 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.

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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