

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27557 of 2023

Arising Out of PS. Case No.-399 Year-2022 Thana- KHAIRA District- Saran

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ROHIT KUMAR BHARTI @ BABA Son of Vijay Bharti R/V- Sakadi Bharti
Tolla, PS- Jalalpur Dist- Saran, At present residing at Mohalla- Lal Gutua
Karam Toli, PS- Nagri, Dist- Ranchi (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar

For the Opposite Party/s : Mr. Uday Chand Prasad

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 21-07-2023 1. Heard learned senior counsel for the petitioner and
learned A.P.P. for the State.
2. Learned senior counsel for the petitioner, Shri
Krishna Prasad Singh, submits that the petitioner is a person
with clean antecedent and the informant alleges that 6.700 kg of
ganja was recovered from a bag and a motorcycle was seized
while accused fled and on inquiry, it transpired that the
motorcycle belongs to Md. Akbar Anwar.
3. Learned senior counsel for the petitioner submits
that the petitioner was not apprehended from the spot as such
nothing was recovered from his conscious possession, it is next
submitted that even the motorcycle does not belong to him and
he came to be implicated based on confessional statement of co-



accused, Dilip Kumar Gupta, in police custody which does not have any evidentiary value. It is next submitted that the Hon'ble Supreme Court, in the case of Toofan Singh Vs. State of Tamil Nadu 221 4 SCC 1 has held that the confessional statement recorded under Section 67 of the Narcotic Drug and Psychotropic Substance Act, will remain inadmissible in trial of an offence under the NDPS Act.

4. Learned senior counsel thus submits that petitioner came to be implicated merely on basis of confessional statement when, admittedly, he is a person with clean antecedent, it is next submitted that petitioner will not abscond, rather, will cooperate in the investigation and will present himself as and when required by the Investigating Officer for eliciting the truth.

5. Learned A.P.P. for the State opposes the anticipatory bail application of the petitioner.

6. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case



is pending/successor court in connection with Khaira P.S. Case No. 399 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. One of the bailor of the petitioner shall be his father Vijay Bharti.

8. However, it is made clear that in the event if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that the petitioner despite giving assurance to this Court is not cooperating in the investigation or is not producing himself when called, the learned Trial Court would be at liberty to cancel the bail bonds of the petitioner after recording reasons.

9. Let a copy of this order be sent to the concerned P.S. through the learned Trial Court.

(Satyavrat Verma, J)

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