

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29798 of 2023

Arising Out of PS. Case No.-1368 Year-2022 Thana- KHAGARIA District- Khagaria

RAJESH KUMAR S/O PRAKASH MAHTO R/O Village- Devghara
Chandra Tola, P.S- Medanichak, Distt.- Lakhisarai.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Murli Dhar

For the Opposite Party/s : Mr.Anuj Kumar Shrivastava

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 12-06-2023 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. Special Case No. 44 of 2022 arising out of Khagaria
(Muffasil) P.S. Case No. 1368 of 2022 registered for the
offences punishable under Sections 8(c), 20(b)(ii)(b), 22(B) of
N.D.P.S. Act.

As per prosecution case, on 26.12.2022 the
informant along with other police personnel were on night
patrolling duty. The informant saw that four persons on a
motorcycle were going towards Begusarai. On suspicion the



informant stopped them but they tried to escape and lastly they were apprehended by the police. On interrogation they disclosed their name as Rajesh Kumar (petitioner) and others. On search total 2.97 kg ganja kept in five packets and one Android mobile were recovered from possession of the petitioner. It is further alleged that total 2.185 kg. ganja was also recovered from possession of co-accused Kamlesh Kumar.

Learned counsel for the petitioner submits that petitioner is quite innocent and has not committed any offence as alleged in the FIR and he has falsely been implicated in this case. Petitioner is in custody since 28.12.2022 and bears no criminal antecedent. Charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. He further submits that there is complete violation of mandatory provision of Sections 42, 50, 52, 55 and 57 of the N.D.P.S. Act. He further submits that alleged recovery of 2.97 kg. ganja from possession of the petitioner is more than small quantity and much less than commercial quantity.

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

Considering the facts and circumstances of the case, period of custody, keeping in view clean antecedent of



petitioner, 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. 25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge cum Special Judge (N.D.P.S.), Khagaria in connection with N.D.P.S. Special Case No. 44 of 2022 arising out of Khagaria (M) P.S. Case No. 1368 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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