

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28925 of 2023

Arising Out of PS. Case No.-470 Year-2022 Thana- BAISI District- Purnia

Vicky Kumar Gupta @ Vicky Kr. Gupta Son Of Amarnath Raut R/O-Nala
Road Nath Nagar, P.S.-NATHNAGAR, Distt.-BHAGALPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 10-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

3. Petitioner seeks bail who is in custody since
27.11.2022 in connection with Special NDPS Case No. 06 of
2023 arising out of Baisi P.S. Case No. 470 of 2022, F.I.R. dated
26.11.2022 for the offences punishable under Sections 8, 20(b)
(ii)(B) of the N.D.P.S. Act.

4. This case relates to the recovery of 5.100 kg Ganja
from the possession of the petitioner and 1.900 kg Ganja from
the possession of the co-accused, namely, Praveen Kumar.

5. Learned counsel for the petitioner submits that



petitioner has clean antecedent 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 5.100 kg Ganja has been recovered from the possession of the petitioner and 1.900 kg Ganja has been recovered from the possession of the co-accused, namely, Praveen Kumar. He further submits that there is non-compliance of the mandatory provision of Section 50 of the N.D.P.S. Act 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, Praveen Kumar has been granted bail by the Co-ordinate Bench of this Court vide order dated 05.06.2023 passed in Cr. Misc. No. 27404 of 2023. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 27.11.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is ganja and the recovered contraband is more than the small quantity.

7. Considering the aforesaid facts and circumstances



and the fact that the petitioner has clean antecedent, recovered contraband is less than the commercial quantity and the co-accused has been granted bail, 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, Purnea in connection with Special NDPS Case No. 06 of 2023 arising out of Baisi P.S. Case No. 470 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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