

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29073 of 2022

Arising Out of PS. Case No.-608 Year-2021 Thana- BETTIAH CITY District- West
Champaran

=====

TARAKESHWAR PATEL, Son of Rajbanshi Patel, Resident of - Baisakhwa,
Ward No.- 7, P.S.- Gopalpur, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sourav Suman, Advocate

For the Opposite Party/s : Mr.Brajendra Nath Pandey, APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 04-01-2023 Heard learned counsel for the petitioner and the learned
APP for the State.

The petitioner seeks bail in connection with Bettiah City
P.S. Case No. 608 of 2021 registered for the offence punishable
under Section 414 of the Indian Penal Code and Section 20(b)(ii)(c),
23 and 29 of the N.D.P.S. Act.

The allegation in the FIR is recovery of commercial
quantity of contraband (*Charas*) from joint possession of the
petitioner along with co-accused Chandeshwar Prasad alias Satish
Kumar.

Learned counsel for the petitioner submits that the
informant in his statement subsequently has clearly stated that the
contraband was recovered while it was in the hands of Chandeshwar
Prasad, in a bag. He submits that there being no recovery of
contraband from the petitioner, the petitioner is entitled to privilege



of bail. The petitioner is in custody since 28.10.2021.

Learned APP for the State has opposed the prayer for bail. Referring to the FIR and the material including the seizure list and arrest memo, it is submitted that the circumstances leading to the recovery is secret information, for which the police party has come to the hotel, from where the petitioner and co-accused Chandeshwar Prasad started fleeing away with the contraband substance in joint possession. The fact that the same was in the hands of the co-accused while arrest could not enure to the petitioner's benefit.

Considering the rival submissions, material in the course of investigation, the quantum of recovery being commercial, this Court, having regard to the bar under Section 37 of the N.D.P.S. Act, as also judgment of the Hon'ble Apex Court in the case of ***Supreme Court Legal Aid Committee Representing Undertrial Prisoners vs. Union of India and Anr.*** reported in ***(1994) 6 SCC 731***, for the purposes of grant of bail, is not inclined to allow the petitioner privilege of bail.

Prayer for bail of the petitioner is rejected.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

shashank/-

U		T	
---	--	---	--

