

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29298 of 2023

Arising Out of PS. Case No.-77 Year-2023 Thana- GHORASAHAN District- East
Champanan

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Saheb Sah Son Of Bhanu Sah Resident of Village-Ghorasahan Ward No. 10,
PS-Ghorasahan, Dist-East Chamaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Opposite Party/s : Mr. Md. Ataur Rahman, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 05-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
17.02.2023 in connection with Ghorasahan P.S. Case No. 77 of
2023, F.I.R. dated 16.02.2023 for the offences punishable under
Sections 20(b) (ii) (b), 23(b) and 25 of the N.D.P.S. Act.

3. Recovery is of 2.550 kg Ganja.

4. 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 2.550 kg Ganja has
been recovered from the possession of the petitioner. He further
submits that there is non-compliance of the mandatory provision



of Sections 42 and 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 police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 17.02.2023.

5. 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 which is more than the small quantity.

6. Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, 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 Sessions Judge cum Special Judge, Motihari, East Champaran in connection with Ghorasahan P.S. Case No. 77 of 2023, 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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