

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29612 of 2023

Arising Out of PS. Case No.-128 Year-2023 Thana- BARUN District- Aurangabad

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SANDEEP KUMAR S/O BABU RAM SHARMA R/O Village- Jankop, P.S-
Barun, Distt.- Aurangabad.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Santosh Kumar Pandey

For the Opposite Party/s : Mr.Md. Fahimuddin

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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 Barun
P.S. Case No. 128 of 2023 registered for the offences punishable
under Sections 20/21 of the Narcotic Drugs and Psychotropic
Substances Act (N.D.P.S. Act).

As per prosecution case, there is alleged recovery
of 200 grams Ganja from the Gumti of present petitioner and
100 grams Ganja from the Gumti of co-accused Rakesh Kumar.

Learned counsel for the petitioner submits that
petitioner is in custody since 22.03.2023. Petitioner bears no
criminal antecedent. Petitioner is quite innocent and has
committed no offence as alleged in the F.I.R. Nothing has been
recovered from the conscious possession or personal possession



of the petitioner. Learned counsel further submits that 200 grams Ganja has been recovered and small quantity of Ganja mentioned in NDPS Act is 1 KG whereas 20KG is commercial quantity and thus, alleged recovery is less than small quantity. Learned counsel further submits that the informant is not competent authority to make search and seizure as mandatory provision laid down under Section 42 and 43 of the NDPS Act. He further submits that no presumption under Section 54 of the Act can be drawn against the petitioner. Provision under Section 50 is mandatory provision and non-compliance of the same creates shadow upon the prosecution version.

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 as well as period of custody, keeping in view clean antecedent of the petitioner, argument advanced on behalf of the parties 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 Special Judge (N.D.P.S.) cum 1st Addl. District and Sessions Judge, Aurangabad in connection with Barun P.S. Case



No. 128 of 2023, 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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