

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30128 of 2023**

Arising Out of PS. Case No.-218 Year-2022 Thana- KUTUMBA District- Aurangabad

NITISH KUMAR son of Braj Kishor Singh @ Brij Kishor Singh Village-
Pola Tole Poli, Ps- Kutumba, Dist- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Mukul Kumari, Advocate

For the Opposite Party/s : Mr. Anant Kumar 1, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

5 26-07-2023 Heard learned counsel appearing on behalf
of the parties.

2. The petitioner seeks bail in connection with
Kutumba P.S. Case No. 218 of 2022 registered for the offence
under Sections 8, 20(b)(ii)(c), 25 and 29 of the N.D.P.S. Act,
1985.

3. The accused/petitioner is named in the F.I.R.
and is in custody since 19.04.2023.

4. As per FIR, 32 Kg. of contraband i.e.
'Ganja', alleged to be recovered from the car of this petitioner.

5. Learned counsel appearing on behalf of the
petitioner submitted that the vehicle in issue i.e. Tata Intra Car
was given on hire basis by this petitioner to one Mohd. Akhtar
@ Akhtar Hussain, S/o Mohd. Nasim, through an agreement



dated 06.09.2022, where, it is clearly mentioned in paragraph No.1 that the agreement is in connection with the vehicle, which has been purchased on 31.07.2022 by this petitioner. It is submitted that though there is no any engine number, registration number and Chassis number are mentioned in the said agreement, but from the Annexure-3 (series) of supplementary affidavit, it is apparent that the vehicle was purchased on 31.07.2022 by this petitioner. It is pointed out by learned counsel that implication of this petitioner is only being that he is owner of the vehicle and no such contraband i.e. *Ganja*, was recovered from his physical possession. It is submitted that the fact of this case suggest that rigorous provisions of Section 37 of the N.D.P.S., not appears applicable *qua* petitioner. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP appearing on behalf of the State, opposes the prayer of bail.

7. Considering the facts and circumstances as mentioned above, as the alleged vehicle was given on hire basis



through duly executed agreement to main co-accused, namely, Mohd. Akhtar, from whom alleged recovery of contraband i.e. 'Ganja' was made, where, no recovery of contraband i.e. 'Ganja' appears from the possession of this petitioner, who is a man of clean antecedent coupled with the fact that charge-sheet has already submitted, where, petitioner is custody since 19.04.2023, let the petitioner, above named, is directed to be released on bail in connection with Kutumba P.S. Case No. 218 of 2022, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (NDPS)-cum-1st Additional District and Sessions Judge, Aurangabad/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

8. The physical presence of I/O of this case, before this Court, is dispensed with.

(Chandra Shekhar Jha, J)

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