

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30962 of 2023

Arising Out of PS. Case No.-111 Year-2023 Thana- BAISI District- Purnia

Madan Kumar Prasad Son Of Pramod Prasad @ Pramod Kumar Raut
Resident Of Village- Sikaria, Ward No. 1, Ps- Madhepur, Distt- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Thakur, Advocate

For the Opposite Party/s : Mr.Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 20-07-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Baisi
P.S. Case No. 111 of 2023 registered for the offence under
Sections 8/20(b) (ii) (c) of the N.D.P.S. Act.

3. The accused/petitioner is named in the F.I.R. and is
in custody since 14.03.2023.

4. The allegation against the petitioner is to have in
possession of 20.222 kilograms of *ganja* including plastic bag.

5. Learned counsel appearing on behalf of the
petitioner submitted that the alleged recovery of contraband i.e.,
ganja not appears to be made from the conscious physical
possession of this petitioner. It is further submitted that
mandatory provisions of Section 50 of the N.D.P.S. Act of 1985,



regarding search upon person not appears to be followed in the present case. It is also submitted that in terms of order dated 05.07.2023 of this Court the weight of plastic bag appears 300 grams and after deduction from total weight of the contraband i.e., *ganja* it comes down to 19.922 kilograms, which is less than commercial quantity and as such implication of Section 37 of N.D.P.S. Act not appears applicable in the present case. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been 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, while opposing the prayer for bail fairly conceded that the quantity of alleged contraband i.e., *ganja* is less than commercial quantity after deducting the weight of plastic wrappers.

7. In view of the facts and circumstances as mentioned above and by taking note of the fact as compliance of Section 50 of the N.D.P.S. Act, *prima facie*, not appears to be followed in the present case, where recovered quantity is less than commercial quantity coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since



14.03.2023, accordingly, petitioner, above named, is directed to be released on bail in connection with Baisi P.S. Case No. 111 of 2023 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, N.D.P.S. Act, Purnea/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

8. Presence of Investigating Officer of this case is dispensed with.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

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