

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31698 of 2023**

Arising Out of PS. Case No.-340 Year-2022 Thana- KOCHADHAMAN District- Kishanganj

Subhash Kumar S/o of Ghutar Yadav Resident of Tarapadhar Ward No.- 4,
P.S.- Banka, District- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amal Kumar Sinha, Advocate
For the Opposite Party/s : Md. Aslam Ansari, APP

**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 27.12.2022 in connection with Kochadhaman P.S. Case No. 340 of 2022, F.I.R. dated 26.12.2022 for the offences punishable under Sections 8/20(b)(ii) B/22/23/29 of the N.D.P.S. Act.

3. According to prosecution case, recovery of total 34 kg 400 gms of Ganja has been made from the bus in question and from the bag of the petitioner, 7 kg 230 gms of Ganja has been recovered.

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 from bare perusal of the F.I.R. and seizure list it appears that altogether 7 kg 230 gm of ganja has been recovered form the bag of the petitioner. He further submits that there is non-compliance of



Sections 42 and 50 of the N.D.P.S. Act. and the recovered contraband is less than the commercial quantity. So there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail. He further submits that co-accused person, namely, Pratap Kumar from whose possession 19.550 gm of Ganja has been recovered, has been granted bail vide order dated 28.04.2023 in Cr. Misc. No. 14872 of 2023. He further submits that the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 27.12.2022.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts and circumstances, 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 (N.D.P.S. Act), Kishanganj, in connection with Kochadhaman P.S. Case No. 340 of 2022, 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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