

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31342 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- KHAGARIA RAIL P.S. District- Khagaria

Kairki Devi @ Kari Devi @ Meera Devi, W/o Rishi Choupal, Resident of Village-Bela Pachimi Tola, P.S.-Gangour, O.P., District-Khagaria. In fact name - Meera Devi @ Mira Devi, aged about 46 Years (Female), W/o Satto Mukhiya @ Satyanarayan Mukhiya, Resident of Village-Chikni, Ward No.-7, P.S.-Alauli, District-Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate

For the Opposite Party/s : Mr. Satyendra Narayan Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 18-01-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Binod Kumar, learned counsel appearing on behalf of the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Special Case (N.D.P.S.) No. 07 of 2022 arising out of Khagaria Rail P.S. Case No. 19 of 2022 registered for the offences punishable under Sections 08, 20(b)(ii)(B) of the N.D.P.S. Act.

As per the prosecution case, it is alleged that in course of checking at Khagaria Railway platform, the petitioner was apprehended by police. On search, total 9.165 Kg Ganja was recovered from a bag.



Learned counsel appearing on behalf of the petitioner submits that in fact no incriminating article has been recovered from the physical/conscious position of the petitioner rather the police apprehended the petitioner on suspicion and the petitioner has nothing to do with alleged Ganja, which is said to have been recovered from a bag. He further submits that there is no compliance of Section 50 of the N.D.P.S. Act, apart from other infirmities in preparation of the seizure list. He next submits that there is no independent witness to the seizure list though the petitioner was apprehended on a railway platform. He next submits that charge-sheet has been submitted without obtaining the F.S.L report, which also vitiates the entire proceedings, apart from the fact that the alleged recovered Ganja is below commercial quantity and as such, the rigors provided under Section 37 of the N.D.P.S. Act could not be applicable in the present case.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the petitioner was apprehended along with a huge quantity of Ganja.

Regard being had to the submissions made on behalf of the parties and considering the fact that the petitioner being a lady, is in custody since 03.03.2022 and moreover, alleged



recovered Ganja is below the commercial quantity and the rigors provided under Section 37 of the N.D.P.S. Act would not be applicable, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge (N.D.P.S.), Khagaria in connection with Special Case (N.D.P.S.) No. 07 of 2022 arising out of Khagaria Rail P.S. Case No. 19 of 2022, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) She will remain present on each and every date of trial till disposal of the case.

(iii) She will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, her bail bonds will liable to be cancelled.

(Harish Kumar, J)

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