

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32419 of 2022

Arising Out of PS. Case No.-40 Year-2022 Thana- BANGAWON District- Saharsa

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Ankit Jha @ Ankit Kumar S/o Murari Jha R/o village- Bangaon, Ward No.-
11, P.S.- Bangaon, District- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. S.S. Sharma with Mr. Pawan Kumar, Advts.
For the Opposite Party/s : Ms. Pushpa Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 08-02-2023 Heard learned counsel for the petitioner and the learned
APP for the State.

The petitioner seeks bail in connection with Bangaon PS Case No. 40 of 2022, dated 04-04-2022, corresponding to Special Case No. 4/2022, registered for the offences punishable under Sections 8, 20(B) II(B) of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (*for brevity NDPS Act*) and Section 25(1-B)a and 26 of the Arms Act.

For making arrest in connection with Bangaon PS case No. 39/2022, the police party has proceeded. They have reached the petitioner's house and have found him seated on a bed. From the box in the bed, there is alleged recovery of four (04) KG contraband (ganja), one country made pistol has also been allegedly recovered, along with one live cartridge.

Learned counsel for the petitioner submits that a shadow of doubt is cast upon the recovery itself in view of the fact that the seizure memo bears the PS case number, and appears to have been prepared in presence of a Circle Officer, who by no means could have reached the place within an hour, as also the fact that the house,



from which the recovery has been made, is not the exclusive house of the petitioner. It is further submitted that recovery is not from his person. It is further submitted that his implication is on account of his antecedents (4 cases) all under the Bihar Prohibition and Excise Act. Petitioner is on bail in all the four cases. It is submitted that recovered contraband is much below commercial quantity (10 KG) and the petitioner has been in custody now since 5/4/2022. It is submitted that investigation is complete.

Learned APP for the State has opposed the prayer for bail. It is submitted that *ganja*, more than small quantity, has been recovered from the box in the bed, on which, the petitioner was sitting at his home. He, therefore, denied the liability.

Considering the rival submission, manner of recovery seizure memo, the period of custody as also the fact that the bar under section 37 is not attracted in this case on account of the alleged quantum of recovery as well as the fact that investigation is complete, this Court, for the purposes of grant of bail, is inclined to accept the submissions advanced by the petitioner's counsel. Prayer for bail of the petitioner is allowed.

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, Saharsa, in connection with Bangaon PS Case No. 40 of 2022, dated 04-04-2022, corresponding to Special Case No. 4/2022, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond



will be liable to be cancelled.

(Madhuresh Prasad, J)

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