

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32995 of 2023

Arising Out of PS. Case No.-36 Year-2023 Thana- BIRPUR District- Supaul

AMSHED MIYAN Son of Ajauddin Miyan Resident of village-Ghuski Ward
No. 6, Police Station-Ghuski, District-Sunsari (Nepal)

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anamul Haque

For the Opposite Party/s : Mr.Ashok Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

2 24-06-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
N.D.P.S. (Spl) 04 of 2003 arising out of Birpur P.S. Case No. 36
of 2023 registered for the offences punishable under Sections
08/20(b)(ii)(B) of N.D.P.S. Act 1985.

As per prosecution case, there is alleged recovery
of 1 KG 50 Gm Ganja from the motorcycle bearing no. BR38X-
1031 in question. Petitioner being the driver of the said
motorcycle apprehended on spot.

Learned counsel for the petitioner submits that
petitioner is in custody since 30.01.2023. Petitioner bears no
criminal antecedent. Learned counsel for the petitioner
specifically submits that charge sheet has already been



submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that the petitioner is innocent and has committed no offence as alleged in the F.I.R. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is not the owner of the alleged motorcycle and he has no knowledge about the alleged recovery. Learned counsel further submits that small quantity of Ganja is 1000 Gm (1 KG) and commercial quantity is 20 KG and the alleged recovery of Ganja is 1 KG and 50 Gm and as per the notification of Schedule 2 of the Act the same comes under intermediary quantity.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence as submitted, keeping in view clean antecedent of the petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-



Special Judge (N.D.P.S.) Supaul in connection with N.D.P.S.
(Spl) 04 of 2023 arising out of Birpur P.S. Case No. 36 of 2023,
subject to following conditions:-

(i) One of the bailors shall be either father or
mother or sister or brother or wife or the person who has sworn
the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will
remain present on all dates and absence for two consecutive
dates without appropriate permission would be a ground for
cancellation of bail by the learned Trial court itself.

(iii) 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.

(iv) If the petitioner is found involved in similar
nature of offences in future, the learned trial court shall be at
liberty to cancel his bail bond.

(Alok Kumar Pandey, J)

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