

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37814 of 2023

Arising Out of PS. Case No.-12 Year-2023 Thana- BHIMPUR District- Supaul

Sumitra Sahni, Wife of Vijay Mukhiya @ Vijay Kumar Mukhiya Resident Of
Village Chainpur, P.S. Bhimpur, District Supaul.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Arvind Kumar, Advocate Mr. Kumar Rajdeep, Advocate Ms. Diksha Kumari, Advocate
For the Opposite Party/s	:	Mr.Pawan Kumar Chaurasia, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 19-07-2023 Heard learned Senior counsel appearing on behalf
of the petitioner and learned counsel appearing on behalf of the
State.

2. Let the defect(s), if any, be removed within a period
of four weeks from today.

3. The petitioner seeks bail in connection with NDPS
(Spl.) Case No. 01/2023 arising out of Bhimpur P.S. Case No.
12 of 2023 registered for the offence under Sections 08/20(B)(ii)
(C)/27/29 of the Narcotic Drugs and Psychotropic Substance
Act, 1985.

4. The accused/petitioner is named in the F.I.R. and is
in custody since 23.01.2023.

5. The allegation against the petitioner is to have in



possession of contraband i.e. Ganja, total of 66 Kg, which alleged to be recovered from her house.

6. Learned Senior Counsel Mr. N.K. Agrawal appearing on behalf of the petitioner submitted that before two weeks prior to this occurrence, petitioner married with the main co-accused of this case, who is her husband and now in custody since 10.07.2023. It is submitted that implication of this petitioner appears only for the reason that she is the wife of main co-accused, namely, Vijay Mukhiya. It is submitted that the house is jointly occupied by different family members and as such, it cannot be said that the alleged recovery was made from conscious physical possession of this petitioner. Learned Senior Counsel further submitted that the compliance of Section 100(4) of Cr.P.C. was not appears to be followed in present case regarding search of premises and moreover, legal provisions regarding seizure and sampling is also not appears to be followed in present case. While concluding the argument, it is submitted that as recovery of contraband not appears to be made from physical possession of this petitioner, therefore, implication of Section 37 of NDPS Act is not appears to be followed in present case. While concluding the argument, it is submitted that petitioner is a lady of clean antecedent and



moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, while opposing the prayer of bail submitted that recovered quantity is commercial and was made from the house of this petitioner.

8. Considering the facts and circumstances as mentioned above and by taking note of fact as petitioner is a lady of clean antecedent, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 18.10.2022, accordingly, petitioner above named, is directed to be released on bail in connection with NDPS (Spl.) Case No. 01/2023 arising out of Bhimpur P.S. Case No. 12 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 Session Judge-cum-Special Judge, NDPS, Supaul/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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