

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39117 of 2022

Arising Out of PS. Case No.-23 Year-2022 Thana- CHAKAND District- Gaya

Rajesh Kumar Son of Ravindra Singh Resident of Village - Madanpur Near
Gandhi Murti , P.S.- Vishnupad and Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 50683 of 2022

Arising Out of PS. Case No.-23 Year-2022 Thana- CHAKAND District- Gaya

Md. Aslam @ Md. Aslam Sah Son Of Late Ajeem Sah R/O Mohalla- Brahm
Asthan, Talab, P.S.- Vishunupad, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 39117 of 2022)

For the Petitioner/s : Mr. Manish Kumar No2, Advocate

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

(In CRIMINAL MISCELLANEOUS No. 50683 of 2022)

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 15-02-2023

CRIMINAL MISCELLANEOUS No.39117 of 2022

Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Chakand
P.S. Case No. 23 of 2022 registered for the offence under
Sections 420 and 120(B) of the Indian Penal Code, Sections



30(a) (c) (D) (F), 33, 36, 44, 47, 32 and 56(D) of the Bihar Prohibition and Excise (Amendment) Act 2018 and Sections 8/20 (b) (ii) (c), 25, 26 and 35 of the Narcotics Drugs and Psychotropic Substances Act .

The accused/petitioner is named in the F.I.R. and is in custody since 17.02.2022.

The allegation against the petitioner is to have in possession of 150 kg of **ganja** alongwith other named co-accused persons.

Learned counsel appearing on behalf of the petitioner submitted that the name of petitioner surfaced on the basis of disclosure made by co-accused, namely, Shahnawaj @ Bhola Miyan and Md. Aslam, in furtherance of which no incriminating material recovered/surfaced during the course of investigation, which may connect this petitioner with the alleged recovery of contraband substance i.e., **ganja**. It is submitted that implications of this petitioner in this case is only for the reason that petitioner is involved in one more case of similar nature where, he is on bail. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.



Learned APP appearing on behalf of the State, while opposing the prayer for bail fairly conceded that alleged recovery of contraband substance i.e., **ganja** was not made from the possession of this petitioner.

In view of the facts and circumstances as mentioned above and by taking note of the fact that no recovery of contraband substance i.e., **ganja** was made from the possession of this petitioner coupled with the fact that charge-sheet has already been submitted, let above named petitioner is directed to be released on bail in connection with Chakand P.S. Case No. 23 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge, Excise Court No.1, Gaya/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

CRIMINAL MISCELLANEOUS No. 50683 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Chakand P.S. Case No. 23 of 2022 registered for the offence under Sections 420 and 120(B) of the Indian Penal Code, Sections 30(a) (c) (D) (F), 33, 36, 44, 47, 32 and 56(D) of the Bihar Prohibition and Excise (Amendment) Act 2018 and Sections



8/20 (b) (ii) (c), 25, 26 and 35 of the Narcotics Drugs and Psychotropic Substances Act .

The accused/petitioner is named in the F.I.R. and is in custody since 17.02.2022.

The allegation against the petitioner is to have in possession of 150 kg of **ganja** alongwith other named co-accused persons.

Learned counsel appearing on behalf of the petitioner submitted that though petitioner alleged to be apprehended on spot but seizure list is missing his name, sufficient to suggest that he was not present on spot. It is submitted that compliance of Section 100(4) of the Cr.P.C. as regarding search of house/premises not appears to be made in the present case. It is also submitted that mandatory compliance of Section 40 and 50 of N.D.P.S. Act also not appears to be made in the present case. It is submitted that seizure list is speaking with a limitation that recovery of alleged **ganja** was made from the house of co-accused, namely, Shahnawaj @ Bholu Miyan only, where petitioner is not connected in any manner. It is also submitted that petitioner is involved in one more case of petty nature, where he is on bail. While concluding the argument, it is submitted that investigation of this case has been completed, for



which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that petitioner was arrested alongwith other co-accused persons having in possession of huge amount of contraband substance i.e., **ganja** total quantity about 150 kg.

In view of the facts and circumstances as mentioned above as petitioner was apprehended on spot alongwith huge quantity of contraband substance i.e., **ganja** and by taking note of the provisions of Section 37 of the N.D.P.S. Act the prayer for bail of petitioner is rejected here with.

The learned Trial Court is directed to conclude the trial, preferably, within a period of six months from the date of receipt of this order, by taking this matter on board, on day-to-day basis, if required.

If trial is not concluded within aforesaid time period petitioner may renew his prayer for bail if so advised.

(Chandra Shekhar Jha, J.)

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