

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45570 of 2023

Arising Out of PS. Case No.-37 Year-2023 Thana- SASARAM RAIL P.S. District- Gaya

SANJAY PRASAD, aged about 45 years, Gender, Male, S/O HIRA LAL SAH, R/O NATWAR ROAD NEAR REGISTRY OFFICE, BIKRAMGANJ, WARD NO. 18, PS. BIKRAMGANJ, DIST. ROHTAS, BIHAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 28-07-2023 1. Heard learned counsel for the petitioner and the learned APP for the State.
2. Petitioner seeks regular bail in connection with Sasaram Rail P.S. Case No. 37 of 2023 dated 26.02.2023 registered for the offence(s) punishable under Section(s) 8/20(b) (ii)(c) of the NDPS Act.
3. As per the prosecution, 18 kg. 600 grams of narcotic material suspected to be *ganja* is said to have been recovered from the possession of this petitioner.
4. The main submissions advanced by the learned counsel for the petitioner are that while making search and seizure of the alleged contraband from the person of this petitioner no independent person was made the witness and the



mandatory provisions of search and seizure mentioned in the NDPS Act as well as Cr.P.C. were not followed by the police and the instant matter relates to the recovery of intermediate quantity of narcotic material suspected to be *ganja* and petitioner was not given information about his right to get his body searched before an Executive Magistrate, though as per the FIR, one Gazetted Officer/Hardeep Kumar Singh is stated to have been present at the time of search and seizure but his presence is unbelievable as there is no details of he having been called upon by the police before making search on the petitioner. Further submission is that the petitioner has been languishing in jail since 27.03.2023 having fair and clean antecedent.

5. Learned APP appearing for the State has opposed the bail prayer.

6. Considering the seriousness of the allegation which relates to recovery of 18 kg. 600 grams narcotic material suspected to be *Ganja* and the same is stated to have been recovered from the conscious possession of this petitioner and as per the FIR, the search and seizure of the alleged contraband was made before a Gazetted officer, in my opinion, it is not a fit case for bail to the petitioner at this stage. Accordingly, his bail



prayer stands rejected.

7. However, considering the petitioner’s fair and clean antecedent and also the quantity of alleged contraband, he is given a liberty to renew his bail prayer after the framing of charge.

(Shailendra Singh, J)

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