

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46764 of 2023

Arising Out of PS. Case No.-288 Year-2022 Thana- JAKKANPUR District- Patna

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Bhola Ray Son of Rambali Roy @ Bali Roy Resident of Mohalla-D.N. Singh
Lane Mithapur, B. Area, Near Durga Mandir, Police Station-Jakkanpur,
District-Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subhash Kumar, Advocate

For the Opposite Party/s : Mr. Parmanand Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-08-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
05.06.2023 in connection with Special Case No. 101 of 2022
arising out of Jakkanpur P.S. Case No. 288 of 2022, F.I.R. dated
01.06.2022 for the offences punishable under Sections 20(b)(ii)
(A)(B) of the N.D.P.S. Act.

3. According to prosecution case, recovery of 1.200
kg of Ganja has been made from the possession of the petitioner.

4. Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case. He further submits that from the bare perusal of
the F.I.R. and seizure list it appears that altogether 1.200 kg of



Ganja is said to have been recovered from the place of the occurrence and the local people have disclosed that the petitioner threw away the Ganja and managed to fled away from the place of occurrence. He further submits that from the bare perusal of the F.I.R., it appears that nothing has been recovered from the conscious possession of the petitioner and name of the petitioner is transpired only on the basis of the disclosure made by the local people and the recovered contraband is less than the commercial quantity, so there is no embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Ganja and Para No.- 3 of the bail petition suggests that the petitioner is involved in two other N.D.P.S. matters.

6. Considering the aforesaid facts that recovered contraband is less than commercial quantity and the petitioner is involved in other cases of the same nature, let the petitioner, above named, be released on bail, **after framing of charge**, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned District and Sessions Judge, Patna, in connection with Special



Case No. 101 of 2022 arising out of Jakkanpur P.S. Case No. 288 of 2022, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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