

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46842 of 2022

Arising Out of PS. Case No.-287 Year-2020 Thana- BARHIYA District- Lakhisarai

ABHISHEK KUMAR, Son of Late Umesh Prasad Singh @ Choyian Singh
Resident of Village - Jaitpur, P.s.- Barahiya, Distt.- Lakhisarai, Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar, Advocate
For the State : Mr.Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 01-02-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 8 and 20 of the Narcotic Drugs and Psychotropic Substances (N.D.P.S.) Act.

As per prosecution case, 502.6 Kg ganja kept in 24 packets was recovered from the locked godown of the petitioner which is situated behind the market.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. He has further submitted that the said godown is the rented house



of the petitioner and in the said premises, the shop is run by Chunchun Kumar. The petitioner has got clean antecedent as stated in para 3 of the bail petition.

Learned A.P.P. for the State has opposed the prayer for anticipatory bail of the petitioner by submitting that the *Ikrarnama* regarding tenant filed on behalf of the petitioner appears to be false and concocted. As per seizure list, it has further submitted that the said ganja was recovered from the godown of the petitioner. The seized contraband is commercial quantity i.e. 502.6 Kg of ganja.

As per Section 37 of the N.D.P.S. Act, the two conditions are that the Court should be satisfied with :-

(i) There are reasonable grounds for believing that the accused is not guilty of such offence ; and

(ii) He is not likely to commit any offence while on bail.

If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the instant case.

Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity of ganja from the conscious possession of the petitioner, I am of the view that no case for grant of anticipatory bail is made out and the same is



rejected with direction to the petitioner to surrender before the Court below concerned within six weeks from the date of this order and the prayer for regular bail and the learned Court below will consider his prayer for regular bail in accordance with law without being prejudiced by this order.

The application stands rejected.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

