

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49386 of 2023

Arising Out of PS. Case No.-152 Year-2023 Thana- TARAIYA District- Saran

Mukesh Sahani @ Munna Kumar Sahani Son Of Upendra Sahani @ Upendra Kumar Sahni R/O Village- Baniya Hasanpur, P.S- Taraiya, Distt.- Saran At Chapra- 841424.

... .. Petitioner/s

Versus

1. The Union Of India Through The Secretary, Ministry Of Home, Narcotic Drugs Control Bureau, New Delhi.
2. The State Of Bihar Through The Department Of Narcotic Drugs Control Bureau Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Surendra Kishore Thakur, Advocate
For the Opposite Party/s :	Mr. K.N.Singh (A.D.S.G), APP
For the Union of India :	Mr. Manoj Kumar Singh (CGC)
:	Mr. Ankit Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 07-08-2023 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with Taraiya P.S. Case No.152 of 2023 registered for the offence under Sections 8, 20(b)(ii)(c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act.

3. The accused/petitioner is named in the F.I.R. and is in custody since 21.05.2023.

4. The allegation against the petitioner is to have in possession of contraband i.e., *ganja* about 13.150 kilograms.

5. Learned counsel appearing on behalf of the



petitioner submitted that petitioner found involved in five more excise cases, where he is on bail and in said connection S.P. alongwith other police officials visited *Hotel Sakshi* owned by this petitioner on 19.05.2023, which is evident from C.C.T.V. footage and for no reason on 20.5.2023, he was alleged to be apprehended with *ganja*, where recovered quantity was shown as 13.150 kilograms which is less than commercial quantity. It is submitted that as alleged quantity is less than commercial quantity therefore implication of rigorous provisions of Section 37 of the N.D.P.S. Act not appears to be applicable in the present case. It is further pointed out that as per F.I.R., alleged recovered quantity was shown recovered from person of this petitioner, where compliance of Section 50 of N.D.P.S. Act not appears to be followed in the present case. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

6. Learned Govt. counsel appearing on behalf of the UoI, while opposing the prayer for bail submitted that alleged contraband was recovered from this petitioner.

7. In view of the facts and circumstances as mentioned above as compliance of Section 50 of the N.D.P.S.



Act not appears to be followed in the present case, *prima facie*, where recovered quantity is less than commercial quantity, coupled with the fact that charge-sheet has already submitted, where petitioner is in custody since 21.05.2023, accordingly, petitioner, above named, is directed to be released on bail in connection with Taraiya P.S. Case No.152 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 Special Judge, NDPS, Saran at Chapra/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C. with further conditions :-

(i) That petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till



conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.

(Chandra Shekhar Jha, J)

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