

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57733 of 2022

Arising Out of PS. Case No.-144 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

SHIV NANDAN KUMAR SON OF SHANKAR MAHTO Resident of
Village- pali, P.S.- Birupur, District- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Narcotics Control Bureau Patna through its Intelligence Officer Union of India BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Usha Kumari Singh, Adv. Mr. Anil Kumar Sharma, Adv. Mr. Ansul, Adv.
For the Opposite Party/s :		Mr. Ram Sevak Choudhary, APP
For the Vigilance	:	Mr. Anshuman Singh, Adv-CGC

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 26-04-2023 Heard learned counsel for the petitioner, learned counsel for the Union of India and learned Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since 19.06.2022, in connection with Nawada (Excise) P.S. Case No. 144/2022, F.I.R. dated 19.06.2022, for the offences punishable under Sections 8, 20 (ii)b of N.D.P.S. Act, 1985.

According to prosecution case, 7 kg Ganja is said to have been recovered from the possession of the petitioner.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as



well as seizure list that 7 kg of ganja has been recovered from the possession of the petitioner. He further submits that there is non-compliance of Sections 42 and 50 of the N.D.P.S. Act and 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. He further submits that co-accused namely, Kaushal Kumar has been granted bail vide order dated 22.02.2023 passed in Cr. Misc. No.55496/2022 and the police after investigation submitted the charge sheet against the petitioner and the petitioner is in custody since 19.06.2022.

Learned counsel for the Union of India as well as Additional Public Prosecutor for the State on the other hand vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is ganja but fairly submits that the recovered contraband is less than the commercial quantity, so, there is no embargo under Section 37 of the NDPS Act to enlarge the petitioner on bail.

Considering the aforesaid facts, the recovered contraband is less than the commercial quantity, petitioner has clean antecedent and the co-accused has been granted bail by Co-ordinate Bench of this Court, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty



five Thousand) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge, Nawada, in connection with Nawada (Excise) P.S. Case No. 144/2022, subject to the following conditions:-

1. 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.

2. 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.

3. 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)

amit/-

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

