

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61697 of 2023**

Arising Out of PS. Case No.-578 Year-2023 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Baby Devi W/O Dinesh Singh Village- Gonarchak Khagra, Ps- Parbatta, Dist
Bhagalpur

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Davendra Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Mritunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

2 25-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
25.06.2023 in connection with Kotwali (Jogsar) P.S. Case No.
578 of 2023, F.I.R. dated 25.06.2023 for the offences punishable
under Sections 34 of the IPC and 20(b)(ii)(B) N.D.P.S. Act,
1985.

3. According to prosecution case, the informant on
secret information reached near '*Ghantaghar Chowk*' and saw
that three ladies with plastic bag standing, caught them and
found in their bags 5 kg 100 gm like *Ganja* from possession of
Baby Devi, 4 kg 172 gm like *Ganja* from the possession of



Dunam Devi and 5 kg 131 gm like *Ganja* from the possession of Sunita Devi. Accordingly, the FIR.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and she has falsely been implicated in the present case. He further submits that from perusal of the FIR, it appears that 5 Kg. 100 gms. Ganja like substance has been recovered from the conscious possession of the petitioner, 4 Kg. 72 gms. Ganja has been recovered from the co-accused, namely, Punam Devi and 5 Kg. 131 gms. Ganja like substance has been recovered from the co-accused, namely, Sunita Devi. Further submits that total 14 Kg. 403 gms. Ganja has been recovered from the possession of the petitioner and other co-accused persons. 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 the police after investigation submitted the charge sheet against the petitioner. The petitioner is in custody since 25.06.2023.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner stating that 5 Kg. 100 gms. *Ganja* like substance recovered from the



conscious possession of the petitioner, but fairly submits that the recovered contraband is less than commercial quantity.

6. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail 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 Judge, Bhagalpur in connection with Kotwali (Jogsar) P.S. Case No. 578 of 2023, 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)

Prakash Narayan

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