

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60048 of 2022

Arising Out of PS. Case No.-210 Year-2022 Thana- CHAINPUR District- Kaimur (Bhabua)

Shivajee Yadav, Son of Vijay Yadav, R/O Village- Mohamadpur, P.S-
Saiyadraja, District- Chandauli (U.P)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Ranjan with
Mr. Majid Mahboob Khan, Advocates
For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-02-2023 Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Alok Ranjan, learned counsel for the
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in
connection with Chainpur P.S. Case No. 210 of 2022 registered
for the offences punishable under Sections 8(C)/20(b)(ii) B/29
of the Narcotic Drugs and Psychotropic Substances Act
(hereinafter referred to as 'NDPS Act').

The prosecution case is based on a written report filed
by the informant alleging therein that the police on a secret



information intercepted the petitioner and one another person, who were coming on a motorcycle, and on search 4.600 Kg of Ganja, wrapped in two packets, have been recovered.

Learned counsel appearing on behalf of the petitioner submits that the alleged recovery of narcotic substance like Ganja has been made from the joint possession of the petitioner and co-accused Sanjay Kumar, however, there is no compliance of Sections 42 and 50 of the NDPS Act, inasmuch, as the recovered Ganja like substance is much below the commercial quantity and, as such, the rigors provided under Section 37 of the NDPS Act would not be applicable in this case. He next submits that from the F.I.R. it is evident that there is no compliance of Sections 52 and 55 of the NDPS Act regarding disposal of the article seized and to take charge of article and its delivery. He submitted that there is no independent witness, inasmuch, as all the witnesses are police personnel. He lastly submitted that the charge-sheet has been submitted in this case without obtaining the FSL report, which vitiates the entire investigation, moreover, the petitioner is a man of clean antecedent and is in custody since 21.08.2022.

On the other hand learned APP for the State opposes the bail application and submits that the recovery has been made



from the conscious possession of the petitioner.

Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovery of 4.600 Kg of Ganja like substance is much below the commercial quantity, which has been recovered from the joint possession of the petitioner and one another accused person, apart from the other irregularities in the seizure and the investigation, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, N.D.P.S. Act, Kaimur at Bhabua in connection with Chainpur P.S. Case No. 210 of 2022, subject to the condition that one of the bailors will be the local residents with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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