

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66778 of 2022

Arising Out of PS. Case No.-344 Year-2022 Thana- AMAS District- Gaya

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Gauri Shankar Kumar Son of Moti Lal Mahto Resident of Village- Akbarpur,
P.S.- Shamsher Nagar, P.S.- Daud Nagar, District- Aurangabad (Bihar)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate

For the Opposite Party/s : Mr. Uday Chand Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

10 12-09-2023 Despite of number of indulgence given to the
counsel for the State, F.S.L. report has not been received as yet.

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

3. Petitioner seeks bail who is in custody since
07.09.2022 in connection with Amas P.S. Case No. 344 of 2022,
F.I.R. dated 05.09.2022 for the offences punishable under
Sections 8/20(ii) (c)/29 of the N.D.P.S. Act.

4. Recovery is of 6.700 kg of Ganja.

5. Learned counsel for the petitioner submits that
petitioner is innocent 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 nothing has been recovered from the
conscious possession of the petitioner rather the recovery has



been made from the vehicle in question and altogether 6.700 kg of Ganja has been recovered and one mobile set was also recovered from the possession of the petitioner. He further submits that there is non-compliance of the mandatory provision of Section 50 of the N.D.P.S. Act and it appears that the recovered contraband is less than the commercial quantity. Hence, there is no embargo under Section 37 of the N.D.P.S. Act for grant of bail to the petitioner. He further submits that without the F.S.L. report, the police had filed the charge sheet against the petitioner. The petitioner is in custody since 07.09.2022.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the ground that the petitioner carries two criminal antecedents other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in one case out of two cases.

7. Considering the aforesaid facts and circumstances and the fact that the recovered contraband is less than the commercial quantity, 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 Sessions Judge-cum-Special Judge,



NDPS Act, Gaya in connection with Amas P.S. Case No. 344 of 2022, 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)

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