

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73131 of 2022

Arising Out of PS. Case No.-187 Year-2022 Thana- HATHAURI District- Muzaffarpur

RAUSHAN KUMAR Son of Hari Thakur R/V- Piraunchha, P.S- Gaighat,
Dist- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 10-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
11.07.2022 in connection with Hathauri P.S. Case No.187/2022,
dated 10.07.2022, for the offences punishable under Sections 20
& 22 of NDPS Act.

According to prosecution case, altogether 15.300 Kg.
Ganja has been recovered from the possession of the petitioner
and other co-accused person.

Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that from bare
perusal of the F.I.R. as well as seizure list, it appears that
nothing has been recovered from conscious possession of the



petitioner rather the recovery has been made from the motorcycle in question and the petitioner was pillion rider of the said motorcycle and said motorcycle belongs to the father of co-accused (Kalyan Kumar). He further 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. He further submits that there is non-compliance of Section 50 of the NDPS Act and without F.S.L. report, the prosecution has filed the charge sheet against the petitioner and petitioner is in custody since 11.07.2022.

Learned Additional Public Prosecutor for the State on the other hand has 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 after filing of the charge sheet, the F.S.L. report has come.

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 3rd Additional Sessions Judge-cum-Incharge Special Judge, NDPS Act, Muzaffarpur in connection with NDPS Case No.171/2022, arising out of Hathauri P.S. Case No.187/2022, 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)

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