

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1868 of 2023

Arising Out of PS. Case No.-225 Year-2022 Thana- BATHNAHA District- Sitamarhi

Mohit Kumar S/o Maujelal Bhagat Resident Of Village- Harpur Ward No 4,
P.S.- Saraiya, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s : Mr. Nawal Kishore Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 2 24-04-2023 1. Heard learned counsel for the petitioner and the learned
APP for the State.
2. Petitioner seeks regular bail in connection with Bathnaha
P.S. Case No. 225 of 2022 dated 19.08.2022 registered for the
offences punishable under Sections 8/20(b)(ii)(c)/22(b)/23 of
NDPS Act and Section 414 of IPC.
3. The main submissions advanced by learned counsel for
petitioner are that in the FIR the quantity of the alleged contraband
has not been revealed though in the seizure list the same has been
revealed, as per the seizure memo the alleged contraband is stated
to have been recovered on NH no. 77 near Jamuna Barahi and in
the said list the details of the seized materials including the alleged
contraband has been given but it is not mentioned that the alleged
contraband was recovered from the conscious possession of the
petitioner and there are several judgments of the Hon'ble Apex

Court acquitting the accused mainly on this ground that alleged contraband was not recovered from the conscious possession of the concerned accused, hence the petitioner is also entitled to get the benefit of the said judgments.

4. Learned APP for the State has opposed the bail prayer and submitted that the instant matter relates to the recovery of commercial quantity of narcotic material suspected to be '*ganja*' and the same was made from the possession of this petitioner.

5. Heard both the sides and perused the FIR and the seizure list attached to the FIR. The FIR goes to show that the petitioner was apprehended with a motorcycle and in the presence of two persons a sack which was loaded on the said motorcycle was searched and according to the seizure memo 37.5 kg of narcotic material suspected to be '*ganja*' was recovered and the same comes in the purview of commercial quantity and the facts of the FIR clearly show that the seized narcotic material was in the conscious possession of the petitioner and the petitioner's defence as taken above is a subject matter of trial. In the light of these facts, I am not inclined to release the petitioner on bail. Accordingly, his bail prayer stands rejected.

(Shailendra Singh, J)

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