

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5423 of 2024

Arising Out of PS. Case No.-687 Year-2022 Thana- ALAMGANJ District- Patna

Vivek Kumar @ Cobra Son Of Vijay Kumar Gupta @ Vijay Kumar Resident
Of Gaighat, Kajibagh, Khara Kuan, P.S. - Alamganj, District - Patna

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Nityanand Kumar
For the Opposite Party/s : Mr. Parmanand Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 16-05-2024 1. Heard learned counsel appearing on behalf

of the parties.

2. The petitioner seeks bail in connection with

Alamganj P.S. Case No.687 of 2022 registered for the

offence under Sections 8/20(b)(ii)(B) of N.D.P.S. Act.

3. The allegation against the petitioner is to

have in possession of contraband i.e., *ganja*, total of

1.140 kg alleged to be seized from the dining hall of the

petitioner.

4. Learned counsel appearing on behalf of the

petitioner submitted that the petitioner has falsely been

implicated in the case for the reasons that alleged



recovered *ganja* not appears to be made from his conscious physical possession. It is pointed out that the compliance of Section 42 of the NDPS Act and also compliance of Section 100(4) of the Cr.P.C not appears to be followed in the present case. For travelling over the argument learned counsel submitted that at the time of search admittedly the petitioner was in custody in connection with other case, where on the disposal of his father co-accused Vijay Kumar, his named surfaced in the present case, only for the reason that he is a man of criminal antecedents and found involved in 37 more criminal cases. It is submitted that, in maximum of the cases the name of the petitioner surfaced out of confessional statement/disclosure of co-accused persons as of present case, having otherwise no hearing on the merit of the case. It is submitted that the alleged recovered quantity is less than commercial quantity, therefore, Section 37 of the NDPS Act also not appears applicable in this case. While concluding the argument it



is pointed out that investigation is completed, for which charge-sheet has already submitted, as such, there is no chances of tampering with the evidence.

5. Learned APP appearing on behalf of the State opposes the prayer of bail.

6. In view of the above-mentioned facts and circumstances as the name of the petitioner surfaced in this case out of disclosure made by co-accused, where admittedly he was in custody at the time of the recovery coupled with the fact that the charge-sheet has already submitted, where the petitioner is in custody since 17.03.2023, let the petitioner, above named, is directed to be released on bail in connection with Alamganj P.S. Case No. 687 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.- XVIII, Patna, subject to the conditions as laid down u/s 437(3) of the Cr.P.C. with further condition:-

“(i) That accused/petitioner



shall not involve in the similar nature of
offence till the conclusion of trial, failing
which the State shall be at liberty to
move before the Trial Court itself for
the cancellation of bail bond of the
petitioner.

(ii) That accused/petitioner
shall cooperate in the trial and shall be
physically present on each and every
date before the Trial Court till
conclusion of the trial and exemption
from physical appearance be allowed
by the Trial Court, only on medical
ground of the petitioner, duly supported
by the documents.”

(Chandra Shekhar Jha, J)

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