

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37033 of 2024

Arising Out of PS. Case No.-9 Year-2024 Thana- BEN P.S. District- Nalanda

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Santosh Prasad @ Santosh Kumar Son of Late Surendra Prasad Resident of
Village - Kutlupur, P.S.- Ben, District - Nalanda

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs.Vaishnavi Singh, Advocate

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

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

2 17-05-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with Ben
P.S. case No. 9 of 2024 instituted for the offences under
Sections 20, 22 of the N.D.P.S. Act.

3. Prosecution case, in short, is that eleven kilogram of
ganja plant has been recovered in this case out of which four
kilogram of *ganja* plant has been recovered from the house of
the petitioner.

4. Learned counsel for the petitioner submitted that the
petitioner has falsely been implicated in the present case.
Charge-sheet has been submitted in this case. Petitioner is in
custody since 14.03.2024 and has one criminal antecedent.



There is no allegation of tampering of witnesses alleged against the petitioner. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner further submitted that there is recovery of *ganja* plant from the house of the petitioner. She further submitted that even taking the whole quantity of *ganja* plant as *ganja* as tabulated in the NDPS Act, the same is below the commercial quantity, and hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Section 42 and 50 of the N.D.P.S. Act.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

6. Considering the aforesaid facts and circumstances of the case, recovered contraband being less than commercial quantity as also the period of custody undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Ben P.S. case No. 9 of 2024, subject to the following conditions:

(I) One of the bailors shall be own/close member of



the family of the petitioner.

(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(III) 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.

(Rudra Prakash Mishra, J)

Alok Verma/-

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