

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48541 of 2024

Arising Out of PS. Case No.-38 Year-2024 Thana- SAHODARA District- West Champaran

Shambhu Sah, Son of Late Banti Sah, Resident of Village - Belwa Bahuari,
P.S.- Gaunaha, District - West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharad Kumar Verma, Advocate
For the State : Mr. M.K.Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-09-2024 Heard learned Advocate appearing on behalf of the

petitioner and the learned Additional Public Prosecutor for the

State.

2. The application for grant of bail to the petitioner
who is in custody in connection with Sahodara P.S. Case No. 38
of 2024 registered for the offence punishable under Sections 8,
20(b)(ii)(B), 22(b), 23(b) of the Narcotic Drugs and the
Psychotropic Substances Act, 1985.

3. The police on a tip off trafficking of contraband,
conducted raid and apprehended the petitioner. On search 8kg
ganja was recovered from the bag being carried by the
petitioner.

4. There is total denial of recovery from the
possession of the petitioner. Learned Advocate appearing on



behalf of the petitioner contended that in fact on the alleged date of occurrence while he was crossing the border, in the meantime some altercation took place with the SSB battalion, resulting into lodging of the FIR. Even if the allegation taken to be true for the sake of submission, the alleged recovered ganja like substance is much below the commercial quantity and, as such, the twin principles required under Section 37 of the NDPS Act is not required to be complied herewith. It is also contended that there are various other infirmities and no mandatory provision of the NDPS Act has been followed, coupled with the infirmities in the sampling and test of the narcotic substance. The witnesses are none else but the police personnels and, as such, it smacks *malafide*. In fact the implication of the petitioner in the present case is because of his past criminal antecedent, out of which one related to identical nature, is the contention of learned Advocate for the petitioner. Be that as it may, the petitioner has been incarcerated since 03.05.2024 and now the investigation of the crime is complete and the chargesheet has been submitted, but without there being FSL report.

5. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that the petitioner has two criminal antecedent



which suggest that the petitioner is involved in such wrongful activities.

6. Regard being had to the submissions made on behalf of the parties and considering the quantity of recovered ganja, which is below the commercial quantity coupled with the infirmities as has been pointed out by learned Advocate for the petitioner and the fact that the investigation of the crime is complete and the chargesheet has been submitted, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-the Exclusive Special Judge, under NDPS Act, West Champaran at Bettiah in connection with Sahodara P.S. Case FIR No. 38 of 2024, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) 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 immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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