

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54127 of 2024

Arising Out of PS. Case No.-400 Year-2023 Thana- BANIAPUR District- Saran

Dharmendra Sah, Son of Late Angad Sah, R/V/Mohalla- Puchare, P.S.-
Baniyapur, Distt.- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Mili Kumari, Advocate

For the Opposite Party/s : Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

3 25-09-2024 Heard learned Advocate for the petitioner and learned
APP for the State.

2. The petitioner seeks regular bail, who is in custody in connection with Baniyapur P.S. Case No. 400 of 2023 registered for the offences punishable under Sections 8/20(b)(ii) (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as ‘the NDPS Act’).

3. The police on a tip off trading of illicit wine conducted raid. However, noticing the police party, one person succeeded in fleeing away. Later on, he was identified as the petitioner by the *Chaukidar*. On search, 47.19 Kg of Ganja, kept in six plastic bags, was recovered.

4. Learned Advocate for the petitioner contended that surprisingly on the same date, one another F.I.R., bearing



Baniyapur P.S. Case No. 401 of 2023, has been instituted, from where the recovery has been shown to the tune of 42.250 Kg of Ganja. In fact, on account of past criminal antecedent of the petitioner, his name has been implicated in this case. The F.I.R. clearly suggests that the petitioner was neither apprehended at the place of occurrence nor any incriminating material has been recovered from his whereabouts. There is no compliance of the mandatory provisions in conducting search and seizure, apart from sampling the narcotic substance. Even if the allegation is taken to be true, it is the admitted fact that save and except the disclosure made by the *Chaukidar*, there is no material suggesting the complicity of the petitioner in the crime and now the petitioner has been incarcerated since 29.01.2024.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that from the two places, a huge quantity of Ganja like substance has been recovered, which is being carried by the petitioner. The antecedent of the petitioner speaks loud about his involvement in identical nature of crime. The recovery of the Ganja is of commercial quantity and thus the petitioner does not deserve any sympathy.

6. Regard being had to the submissions made on



behalf of the parties and considering the specific nature of accusation, suggesting recovery of Ganja of commercial quantity, coupled with the criminal antecedent of the petitioner, this Court is not persuaded to enlarge the petitioner on bail.

7. Accordingly, the prayer for grant of bail to the petitioner is rejected.

(Harish Kumar, J)

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