

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55475 of 2024

Arising Out of PS. Case No.-184 Year-2023 Thana- SARAI District- Vaishali

Ritesh Kumar Son of Akshay Trumpet @ Akshay Turha R/o Village- Teghara,
P.S.- Bihiya, District- Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Economic Offence Deptt. Bihar Patna Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shweta
For the Opposite Party/s : Mr.Dinesh Singh

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 02-08-2024 Heard the learned counsel for the parties.

2. The petitioner is seeking regular bail in connection with NDPS No. 38 of 2023 arising out of Sarai P.S. Case No. 184 of 2023, registered for the offences punishable under Sections 20(b) (ii) (B), 23(c) and 27 (B) of the NDPS Act.

3. As per allegation, the police received a secret information that some *ganja* smugglers were coming with *ganja* from Dimapur (Nagaland) by train and they were to supply the same to Ara through Patna. Then, the police official swung into action and conducted raid, but the accused persons on seeing the police personnel started fleeing away. However, they were apprehended with the help of police force and they disclosed



their names as Ritesh Kumar (the petitioner), Raj Kishore Yadav, Rakesh Kumar Singh and Munna Singh. On search, the police personnel recovered 104 kg ganja from the possession of the petitioners and other co-accused persons.

4. The learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated and made scapegoat in this cases. No incriminating article or contraband was recovered from his possession. He has further submitted that the FIR itself shows that no sampling was done at the place of occurrence. He has also submitted that the investigating authorities submitted the charge-sheet without obtaining FSL report. He has next submitted that in Case of *Ram Babu Yadav Vs. The State of Bihar in Criminal Miscellaneous No. 21326 of 2021* a co-ordinate Bench of this Court has observed that submission of charge-sheet in absence of FSL report merely because the Investigating Officer felt that the accused would get the benefit of default bail under Section 167(2) of the CrPC, amply reflects that the Investigating Officer was not aware of the provisions relating to NDPS Act and was completely oblivious of Section 36A(4) of the NDPS Act, and submission of charge-sheet in absence of FSL report does not justify the incarceration of the accused.



5. On the other hand, the learned counsel for the Economic Offences Unit opposed the prayer for bail and submitted that huge quantity of *Ganja* was recovered from possession of the petitioner and merely because non-submission of the FSL report, does not make the petitioner entitled to get the privileges of bail. He has submitted further that non-submission of charge-sheet in absence of FSL report is not an erroneous charge-sheet, rather it is an incomplete charge-sheet.

6. The investigating authority submitted charge-sheet without FSL report so still it has not been determined whether the seized article is narcotic drug or psychotropic substance. No body can be put behind the bar for indefinite time without confirming that the seized article is psychotropic substance.

7 Considering the above-mentioned facts and circumstances, let the petitioner above-named be released on bail on furnishing bail bonds of Rs.10,000/-, with two sureties of the like amount each, to the satisfaction of learned Additional Sessions Judge-I-cum Special Judge NDPS Vaishali at Hajipur Sessions Judge-cum-Special Judge (NDPS Act), Kishanganj in connection with Sarai P.S. Case No. 184 of 2023, subject to the following conditions:-

(i) The petitioner shall cooperate in the



disposal of the trial and make himself available on each and every date fixed at the trial, and if he fails to appear on two consecutive dates, without any reason or unavoidable circumstances, the learned court below shall be at liberty to cancel his bail bonds.

(ii) Before release of the petitioner, the learned court below shall verify his criminal antecedents.

(Nawneet Kumar Pandey, J)

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