

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53518 of 2023

Arising Out of PS. Case No.-1 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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Mithu Bera Son Of Santosh Bera Resident of Village-Sundra Danga, P.S.
Udagiri, District Gajapatti (Orissa).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. N. A. Shamsi, Adv.

For the Opposite Party/s : Mr. Dr.Mrityunjaya Kr.Gautam, APP

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

ORAL ORDER

8 28-02-2024 Heard learned counsel for the petitioner and learned
APP for the State as also perused the case diary.

2. The petitioner seeks bail in connection with Nawada
(Excise) P.S. Case No. 01 of 2022 instituted for the offences
under Sections 8/20(ii)(b) and (c) of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
total 30 Kg. Ganja kept in different packets in two bags and two
sacks and, on query from the passengers, driver and Khalasi,
they told that the said recovered Ganja belong to the passengers
who were sitting at seat nos. 15 and 16 of the bus. Thereafter, on
query, both the passengers namely Bittu Das and Mithu Bera
(the petitioner) accepted the same and were arrested. The
alleged Ganja were also seized by the police.



4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. He further submits that nothing incriminating has been recovered from the conscious possession of the petitioner and, thus, it cannot be said that the petitioner is the owner of the alleged bags containing Ganja. The petitioner has no concern with the seized liquor. The petitioner was having no knowledge regarding the seized Ganja. The petitioner has no criminal antecedent as has been stated in paragraph no.3 of the present bail application. The petitioner is languishing in judicial custody since 02.04.2022.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner submitting that the petitioner is named in the F.I.R. and huge amount of Ganja has been recovered from the constructive possession of the petitioner. The State has also filed counter affidavit stating therein that the sample of the seized Ganja was sent to the F.S.L., Patna for its examination and the F.S.L. report dated 15.07.2022 has been received confirming the alleged substance to be Ganja containing Tetra Hydro Cannabinol (T.H.C.) as their Chief Intoxicating Ingredient. He has further stated that the police has also submitted the charge-sheet no. 80/2022 on



19.07.2022 against the petitioner and Bittu Das under the N.D.P.S. Act and, thereafter, cognizance has also been taken.

6. Pursuant to the order of this Court, the court below has sent a report regarding stage of the case which is kept at Flag-A wherein it has stated that only one witness has been examined and discharged. It has further been stated that if both sides extend cooperation, the trial may be concluded within a period of 06 to 08 months.

7. Considering the entire facts and circumstances of the case and taking into account the rival submissions made on behalf of the parties as also considering the quantity of Ganja seized by the police, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the prayer for bail of the petitioner is rejected for the present with a direction to the court below to expedite the trial and conclude the same within a period of nine months from the date of receipt/production of a copy of this order.

9. It is made clear that if the trial is not concluded within a period of nine months, as stated above, the petitioner will be at liberty to renew his prayer for bail before the court below which will be considered on its merit without being



prejudiced by this order.

10. The District Magistrate, Nawada and the Superintendent of the Police, Nawada are directed to ensure the presence of the charge-sheet witnesses during trial.

11. Let a copy of this order be sent to the District Magistrate, Nawada and the Superintendent of the Police, Nawada for the compliance of this order.

(Rudra Prakash Mishra, J)

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