

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67567 of 2024

Arising Out of PS. Case No.-277 Year-2024 Thana- SURSAND District- Sitamarhi

Md. Mahtab Alam Son of Md. Usman, Resident of Village - Garha, Ward No.8, P.S. -Pupri, District - Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Ashhar Mustafa, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 25-09-2024 Heard Mr. Ashhar Mustafa, the learned counsel for the petitioner and Mr. Anuj Kumar Shrivastava, the learned Additional Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since 11.06.2024, in connection with Sursand P.S. Case No. 277 of 2024, FIR dated 10.06.2024, registered for the offences punishable under Sections 399 and 402 read with Section 34 of the Indian Penal Code and under Section 25(1-b)a, 26 and 35 of the Arms Act and under Sections 8, 20(b)(ii)(A) of the NDPS Act.

3. According to the prosecution case, after receiving confidential information that some miscreants are making plan for committing crime at Srikhandi Bhitha, the informant along with other police personnel reached at the alleged place and apprehended the petitioner and other co-accused persons. It is



further alleged that from the possession of petitioner one kilogram of *ganja* like contraband was recovered.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from perusal of the FIR, it appears that one kilogram *ganja* like contraband and one mobile phone have been recovered from the possession of the petitioner and other articles have been recovered from the possession of other co-accused persons, hence, no case is made out under Arms Act. He further submits that the quantity of recovered contraband is less than the commercial quantity, hence, there is no embargo under Section 37 of the NDPS Act to enlarge the petitioner on bail. He lastly submits that similarly situated co-accused persons namely, Santosh Kumar & Anr. have been granted bail by this Court vide order dated 25.09.2024 passed in Cr. Misc. No. 67401 of 2024 and the petitioner is in custody since 11.06.2024.

5. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner.

6. Considering the aforesaid facts and circumstances and mainly the facts that petitioner has clean antecedent, the



recovered quantity is less than commercial quantity and similarly situated co-accused person has been granted bail, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten Thousand only) with two sureties of the like amount each to the satisfaction of the learned Sessions Judge-cum-Special Judge, NDPS, Sitamarhi, in connection with **Sursand P.S. Case No. 277 of 2024**, subject to the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned trial Court.

(ii). 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.

(iii). And further condition that the learned trial Court 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 learned trial Court shall take step for cancellation of bail bond of the petitioner. However, the



acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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