

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72208 of 2024

Arising Out of PS. Case No.-304 Year-2021 Thana- GHORASAHAN District- East
Champaran

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Nakchhed Mukhiya, Son of Basudev Mukhiya, resident of village- Nandsagra
Dhad (Dat), Ward No.01, P.S- Simrourgarh, District-Bara (Nepal)

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India through Narcotics Control Bureau, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr.Pramod Kumar Prasad, Advocate.
For the Union of India : Mr.Ram Sevak Choudhary

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 22-11-2024 Heard learned counsel for the petitioner and learned
APP APP for the State.

2. The petitioner seeks regular bail in connection with
N.D.P.S. Case No. 64 of 2021, C.I.S. 64 of 2021 arising out of
Ghorasahan (Jitna) P.S. Case No. 304 of 2021 dated 22.07.2021,
registered for the offences punishable under Section 8/20(b)
(ii)9C) of the NDPS Act.

3. As per allegation, there is recovery of 41.500 Kg.
of *Ganja* from the petitioner and co-accused Pukar Mukhiya.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has falsely been implicated in this
case. He further submits that the law regarding search and
seizure has not been followed and the whole prosecution is



vitiated. He also submits that the petitioner is in custody since 23.07.2021 i.e. more than three years and trial is still at the nascent stage. Only few prosecution witnesses have been examined. Hence, in view of fundamental right to liberty, the petitioner should not be detained any further without conclusion of the trial.

5. It has also been stated in paragraph no. 3 of the bail petition that the petitioner has got clean antecedent.

6. It is also stated in paragraph no. 2 of the bail petition that the petitioner has moved this Court earlier for regular bail vide Cr. Misc. No. 16078 of 2022 and 53989 of 2023 respectively.

7. However, learned counsel for the NCB vehemently opposes the prayer of the petitioner for bail submitting that the amount of the recovered contraband is commercial in nature and the alleged offence is serious and, hence, the petitioner does not deserve to be enlarged on bail.

8. Considering the fact that the petitioner is in custody for more than three years without conclusion of trial, this application is allowed, directing the petitioner, above-named, to be enlarged on bail on his furnishing bail bonds in the sum of Rs.10,000 /- (Ten Thousand) with two sureties of the like



amount each to the satisfaction of learned Exclusive Special Judge, Court No. II, East Champaran Motihari, in connection with N.D.P.S. Case No. 64 of 2021 arising out of Ghorasahan (Jitna) P.S. Case No. 304 of 2021 on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not get hampered on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedents other than the disclosed one, learned court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong,



Ld. court below shall cancel the bail bonds of the petitioner.

(vi) In case, the petitioner repeats offence of similar nature after enlargement on bail, his bail-bond will be cancelled by the court below.

(Jitendra Kumar, J)

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