

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73809 of 2022

Arising Out of PS. Case No.-192 Year-2022 Thana- KATIHAR GRP CASE District- Katihar

Subrato Ghosh @ Subrata Ghosh Son of Late Mahadev Ghosh Resident of
Neta Jee Colony, Ward No.- 08, P.S.- East Dimapur, District - Dimapur
(Nagaland).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sumit Kumar, Adv.

For the Opposite Party/s : Ms.Anita Kumari, APP

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

ORAL ORDER

8 18-03-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with Rail
P.S. Case No. 192 of 2022 instituted for the offences under
Sections 8, 22(b)(ii)(C) of the N.D.P.S. Act.

3. As per prosecution case, in course of patrolling, the
Informant searched the bag of the accused/petitioner and
recovered total 50.100 Kg. of *Ganja*.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence as alleged
against him and has falsely been implicated in the present case.
He further submits that there is no report of Forensic Science
Laboratory to confirm the alleged recovery to be of *Ganja*. He



again points out that from the seizure list, it is evident that the said Ganja has been recovered near the upstream pedestrian bridge at platform no.1 and not from the conscious possession of the petitioner. He again submits that the petitioner had reserved the seat in Coach B-4 of the train whereas the police says that he had got down from B-3 Coach which falsifies the prosecution case. The petitioner has no concern with 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 28.05.2022. Charge-sheet has been submitted without F.S.L. Report.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP submits that the recovered contraband is above the commercial quantity and, hence, there is bar under Section 37 of the N.D.P.S. Act.

6. Pursuant to the direction of this Court, the learned court below has sent its report dated 1st of March, 2024 stating therein that the statement of the accused has been recorded under Section 313 of the Cr.P.C. on 21.02.2024 and the case record is running for defence evidence and next date is fixed on



06.03.2024.

7. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial quantity coupled with embargo under Section 37 of the N.D.P.S. Act and also taking into account the report sent by the concerned court below, this Court is not inclined to grant bail to the petitioner at this stage.

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

9. If the trial is not concluded within the aforesaid period of three months, the petitioner will be at liberty to renew his prayer for bail before the court below which will be disposed of on its merit without being prejudiced by this order.

(Rudra Prakash Mishra, J)

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