

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79811 of 2024

Arising Out of PS. Case No.-78 Year-2024 Thana- KANHAULI District- Sitamarhi

Shambhu Tiwari Son of Umesh Tiwari R/O Village - Bagahi, P.S.-
Parwanipur, Dist.- Parsa, Nepal

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Santosh Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 13-12-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Kanhauri P.S. Case No. 78 of 2024 registered for the offence
under Sections 414, 420, 467, 468, 489D of the I.P.C. and
8/20(b)(ii)(B) of NDPS Act, 1985.

3. The petitioner is named in the F.I.R. and is in
custody since 17.06.2024.

4. The allegation against the petitioner is to have in
possession of 2 kg of *ganja* alongwith other co-accused
persons/family members.

5. Learned counsel appearing on behalf of the
petitioner submitted that petitioner has been falsely



implicated in present case as alleged recovery of *ganza* i.e. total of 2 kg. was made from the house of co-accused namely, Kanhai Singh. It is further submitted that co-incidentally, on the date of recovery, petitioner visited home of co-accused Kanhai Singh to meet his ailing father and unfortunately, implicated falsely with present case without having any incriminating materials. It is submitted that the compliance of Section 100(4) of Cr.P.C. not appears to be followed in present case regarding search of the premises. While travelling over the argument, it is submitted by learned counsel that as recovered contraband/*ganza* is less than commercial quantity, therefore, rigorous provisions as available under Section 37 of the NDPS Act not appears to be applicable in present case.

6. While concluding the argument, it is submitted that petitioner has no criminal antecedent and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP opposes the prayer of bail.



8. In view of aforesaid facts and submissions as mentioned above and by taking note of fact as recovered contraband/ganza is less than commercial quantity where recovery not appears to be made from conscious physical possession of petitioner rather from house of the co-accused, coupled with fact that charge-sheet has already been submitted, where petitioner is in custody since 17.06.2024, accordingly petitioner above named, is directed to be released on bail in connection with Kanhauli P.S. Case No. 78 of 2024 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act, Sitamarhi/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C/ Section 480(3) of BNSS.

(Chandra Shekhar Jha, J.)

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