

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82889 of 2023

Arising Out of PS. Case No.-12 Year-2023 Thana- BHIMPUR District- Supaul

=====

VIJAY MUKHIYA @ BIJAY MUKHIYA S/O MITULAL MUKHIYA
VILLAGE- CHAINPUR, WARD NO.2, PS. BIRPUR, DIST. SUPAUL.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar Tiwary

For the Opposite Party/s : Mr.Surendra Prasad Singh

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 07-03-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
NDPS (Special) Case No. 01 of 2023 registered on 22.01.2023
lodged under Sections 08/20(B)(ii)(c)/22C/27/29 of the NDPS
Act, 1985.

3. As per the prosecution case, F.I.R. has been lodged
against 5 named accused persons and the persons who are owner
of the vehicle to whom allegation is of recovery of total 92 Kg
of Ganja.

4. Counsel for the petitioner submits that from the
content of the F.I.R., it is clear that the said recovery has been
made from his house but at the time of recovery he was not
present at the house and the name of the petitioner has been



figured in this case by the virtue of confessional statement of the co-accused. He submits that total *Ganja* has not been recovered from the house rather only 66 kg has been recovered from his house and 21 kg and 5 kg *Ganja* has been recovered from the different vehicle. Counsel further submits that in the light of ***Toofan Singh Vs State of Tamil Nadu AIR SC 5592*** Case, the statement of co-accused cannot be sustained during trial against the persons whose name has been figured by the statement of the co-accused. Counsel further submits that one of the co-accused namely Sumitra Sahni has been granted bail by co-ordinate Bench of this Court vide order dated 19.07.2023 passed in Cr. Misc No. 37814 of 2023. Counsel for petitioner submits that this Hon'ble Court has decided certain cases on the point of Section 67 of the NDPS Act where voluntary statement of the co-accused may not be proved. Those judgments are the case of Dharamraj Singh @ Junna decided on 07.12.2022 passed in Cr.Misc No. 40615 of 2022. Counsel further submits that petitioner is innocent and has committed no offence. He further submits that petitioner is in custody since 11.07.2023 having no criminal case pending against him.

5. Learned counsel for the State opposes the prayer for bail and submits that the recovery has been made from the



house of the petitioner and the lady who has disclosed the name of the petitioner who is nonetheless but the wife of the petitioner. Counsel submits that at the time of allowing the bail of said Sumitra Sahni, this aspect was well discussed by the coordinate Bench vide order dated 19.07.2023 passed in Cr.Misc. No. 37814 of 2023 in which all the allegation have been thrown by Sumitra Sahni upon the Vijay Mukhiya, i.e. the present petitioner.

6. In the present facts and circumstances of this case, this Court is not inclined to grant bail to the petitioner at this stage.

7. Accordingly, the bail application of the petitioner is hereby rejected.

(Dr. Anshuman, J)

Sunnykr/-

U			
---	--	--	--

