

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28894 of 2025

Arising Out of PS. Case No.-165 Year-2024 Thana- KANHauli District- Sitamarhi

Amit Kumar S/o Sikindar Mahto R/o village - Enrva, ward no. -2, P.S. -
Kanhauli, Dist. - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Virendra Kumar

For the Opposite Party/s : Mr.Surendra Kumar

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 10-10-2025 Heard the parties.

2. The petitioner seeks bail in connection with Kanhauli P.S. Case No. 165 of 2024 registered for the offence under Sections 317(5) of the BNS and Section 8, 20(B)(II)(B), 22, 23, 27(a) of NDPS Act and Section 25(1-B)a, 26, 35 of Arms Act.

3. The petitioner is named in the F.I.R. and is in custody since 06.12.2024.

4. The allegation against the petitioner is to have in possession of 5 kg of *Ganja*, where petitioner was also found in possession of one loaded country made pistol.

5. Learned counsel appearing on behalf of



the petitioner submitted that the alleged motorcycle was also occupied by other co-accused person and therefore recovery of contraband cannot be said to be made from the exclusive physical possession of this petitioner. It is submitted that even recovery of pistol also not appears to be made from the conscious physical possession of this petitioner. Learned counsel further submitted that recovered quantity of contraband is less than commercial quantity, therefore, rigors of Section 37 of NDPS Act not appears applicable in the present case. It is submitted that police fail to comply the mandatory provision qua personal search as available under Section 50 of NDPS Act and moreover the mandatory provision regarding Search, Sealing and Seizure (SSS) also not appears followed in present case While concluding the argument, it is submitted that petitioner found involved in one more criminal case where he is on bail 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.

6. Learned APP opposes the prayer of bail.

7. In view of aforesaid factual submission and by taking note of fact as recovered quantity appears less than commercial quantity, where recovery *prima-facie* not appears to be made from the conscious physical possession of this petitioner, coupled with fact that investigation of this case already completed where petitioner remains in custody since 06.12.2024, accordingly petitioner above named, is directed to be released on bail in connection with Kanhauli P.S. Case No. 165 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 (NDPS), 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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