

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.40138 of 2016**

Arising Out of PS.Case No. -68 Year- 2016 Thana -MAHESI District-  
EASTCHAMPARAN(MOTIHARI)

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1. Kauleshwar Singh S/o Late Suba Singh @ Subhnarain Singh resident of  
Village- Rampurwa, P.S.: Mehshi District:- East Champaran.

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Pramod Kumar Pandey

For the Opposite Party/s : Mr. Umashankar Pd. Singh

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

2      22-09-2016                      Heard learned counsels for the petitioner and the  
  
State.

The petitioner is languishing in custody since  
18.5.2016 in a case registered for the offences punishable  
under Sections 20,22,23 and 25 of the NDPS Act.

From the possession of the petitioner 64 small  
sachets of ganja were recovered.

It is submitted by the learned counsel for the  
petitioner that the weight of seized contraband has not been  
mentioned either in the FIR or in the seizure list which  
suggests that the recovery is of small quantity.

This is an usual phenomenon that NDPS Act

cases are registered by the Bihar Police without weighing the seized substance. It is relevant to state here that this sorry state of affairs has been brought to the notice of the Director General of Police, Government of Bihar in a different proceeding but it appears that no needful action has been taken in this regard.

In the circumstances, the court has to give the benefit of laches to the accused. It is further submitted that the recovery has been made from the personal possession of the petitioner but the provision of section 50 of the NDPS Act has not been followed, which vitiates the seizure. The petitioner is 65 years old and is a saint. Statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

Learned counsel for the State does not controvert this fact that the weight of the seized contraband has not been mentioned either in the FIR or in the seizure list. More over, the investigation has already concluded.

Considering the aforesaid fact particularly the fact that the investigation has already concluded, let the above named petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the

like amount each to the satisfaction of learned 3<sup>rd</sup>  
Additional Sessions Judge, East Champaran, Motihari in  
connection with NDPS Case No. 27 of 2016 arising out of  
Mehsi P.S. Case No. 68 of 2016.



**(Dinesh Kumar Singh, J)**

Anil/-

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