

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.17903 of 2020**

Arising Out of PS. Case No.-6 Year-2020 Thana- NAWADA MUFFASIL District- Nawada

MOTI YADAV Son of Baleshwar Yadav Resident of Village- Manjhanpura,
P.S.- Muffasil, District- Nawadah Petitioner

Versus

THE UNION OF INDIA THROUGH SPL. PROSECUTOR, (N.D.P.S.) India.
... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate
For the Opposite Party/s : Ms. Priya Gupta, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 05-06-2020 This application has been placed for consideration
by the order of the Hon'ble the Chief Justice through virtual
court proceeding.

Heard learned counsel for the petitioner and Ms. Priya
Gupta, learned AC to Ms. Shail Kumari, learned Advocate.

Ms. Priya Gupta submitted that she has been
instructed by Ms. Shail Kumari learned counsel for the Union of
India to assist this Court in the present case.

The petitioner in the present case is seeking regular
bail in connection with Nawadah Muffasil P.S. Case No. 06 of
2020 corresponding Spl. (N.D.P.S.) Case No. 04 of 2020
registered for the offences punishable under Sections 8(b) (c),
20(a) (b) of Narcotic Drugs & Psychotropic Substances Act.

Learned counsel for the petitioner submits that the
petitioner is a poor labourer, he was constructing a house under



Indira Awas Yojna but the said house was under construction as the petitioner had left for Delhi to earn his livelihood and in his absence it is alleged that 16 green plants of Ganja has been found in the under constructed house and 10 plants from a nearby passage (Cola) situated at the back of the house of one Ram Balak Yadav (not the petitioner).

Learned counsel submits that there is no independent seizure list witness of this case and the two police personnel have signed the seizure list witness even though the under constructed house is situated in the village.

Learned counsel further submits that in the first information report itself it may be found that the petitioner has been arrested in course of search and it has come in the first information report that the alleged recovery is from under constructed house and Cola area which were not in possession of the petitioner. The petitioner is said to be in custody since since 09.01.2020, investigation against him is complete and at this stage if the petitioner is released on bail, he would be ready to abide by the terms and conditions which may be imposed against the petitioner.

Learned counsel for the department has opposed the prayer for regular bail of the petitioner as according to her 16



green plants of Ganja have been found in the under constructed house of this petitioner, however, as regards the Cola area from where 10 plants of ganja has been recovered, admittedly in the FIR it has come that the information are being collected from the Circle office, Nawada with regard to the ownership of the said plot.

Considering the facts and circumstances of the case wherein the petitioner is said to be a poor labourer and the alleged recovery of 16 green plants which according to learned counsel for the petitioner cannot be said to be Ganja as no flower has been found thereon and it will not come within the meaning of cannabis plant as also the petitioner has remained in custody since 09.01. 2020 and at this stage the investigation is complete and there is no submission that his release at this stage is in any way likely to adversely affect the course of trial, let the petitioner above named be released on bail in connection with Nawadah Muffasil P.S. Case No. 06 of 2020 corresponding Spl. (N.D.P.S.) Case No. 04 of 2020 on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction learned Sessions Judge-cum-Spl. Judge (N.D.P.S.), Nawadah, subject to the conditions as laid down under Section 437(3) of the Cr.P.C. as under:



(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, or the commission of which he is suspected, and

(c) that such person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic during the lockdown period. The authorities concerned shall take appropriate steps to ensure such observance prior to and after release of the petitioner.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

