

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.20963 of 2021**

Arising Out of PS. Case No.-154 Year-2020 Thana- NADI P.S. District- Patna

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RAMEKBAL KUMAR S/O INDRADEV RAY @ INDRADEV YADAV R/o
Gulmehiyachak, P.S.- Nadi, Distt.- Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

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

For the Opposite Party/s : Mr. Balmukund Prasad Sinha, APP

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

24 08-07-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Nadi P.S. Case No. 154 of 2020 (Spl. Case No. 142 of 2020) registered for the offences punishable under Sections 8(iii)/20(b)(ii)(C)/22(C) of Narcotic Drugs and Psychotropic Substances (N.D.P.S.) Act.

As per the prosecution story, on 19.09.2020 the informant, who is a Sub-Inspector of Police, was on patrolling duty and when he was near Sabalpur six lane road he saw some



persons fleeing away after throwing a plastic bag. These persons were chased and eventually they were caught and five kg of ganja was recovered from the plastic bag which was thrown by them.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. It is further submitted that nothing has been recovered from the conscious possession of this petitioner and the bag has been recovered from an open place which accessible to general public. Learned counsel submits that the quantity of seized ganja is much less than the commercial quantity. It is submitted that the petitioner is in custody since 21.09.2020 having no criminal antecedent.

Learned A.P.P. for the State has opposed the prayer for regular bail of the petitioner.

Having regard to the facts and circumstances of the case wherein as per the prosecution story, the Sub-Inspector of Police arrested the petitioner and the co-accused on finding that they were fleeing away after throwing a plastic bag, the submission being that in this case there is no compliance of Section 50 of the N.D.P.S. Act as merely giving an option to the accused to get him searched in presence of the Magistrate but



then assuming the role of the Magistrate by the I.O. himself is not in accordance with law, further submission that the recovery is not from the body of this petitioner, the bag has been recovered from a place which is open to general public, it is a roadside place and the quantity of ganza is much less than the commercial quantity, therefore, bar under Section 37 of the N.D.P.S. Act is not attracted, considering these submissions, let the petitioner above named be released on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XVI, Patna in connection with Nadi P.S. Case No. 154 of 2020 (Spl. Case No. 142 of 2020) subject to the condition as laid down under Section 437 (3) 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, of 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 the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(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'.

