

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.39235 of 2020**

Arising Out of PS. Case No.-98 Year-2020 Thana- BARAUNI District- Begusarai

SAJAN KUMAR S/o Ramlali Mahto R/o Village- Papraur, P.S.- Barauni  
( Zero Mile), District- Begusarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

|                            |                                                                                               |
|----------------------------|-----------------------------------------------------------------------------------------------|
| For the Petitioner/s :     | Mr. Ajay Kumar Thakur, Sr. Advocate<br>M/s Udbhav, Nikesh Kumar, Vaishnavi<br>Singh, Advocate |
| For the Opposite Party/s : | Mr. Md. Matloob Rab, APP                                                                      |

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

4      15-03-2021                      Heard learned Counsel for the petitioner and the learned  
Counsel for the State.

This Court would expect that the petitioner's Counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioner seeks bail in Barauni (Zeromile) PS Case No. 98 of 2020 registered under Sections 8, 20(b) (ii) (C ) of the NDPS Act.

Nearly 120 Kg. Ganja has been recovered from the house of co-accused Shamshad. The prosecution case is that Shamshad has stated about the substance being kept there at the instance of the petitioner, who was also his partner in the illicit trade. The petitioner has been arrested during investigation. His own confessional statement has also been recorded by the police.

Learned Counsel for the petitioner submits that other than confessional statement of the petitioner and the statement of co-accused obtained under duress in police custody, no material has come during course of investigation in any way to link the petitioner with the recovered "Ganja" from the house of co-accused Shamshad.



Petitioner's confessional statement, in absence of any other material is insufficient to implicate him in this case. Prima facie no offence would be made out under the provisions of Narcotic Drugs and Psychotropic Substance Act, and that these facts constitute reasonable grounds for this Court to believe that petitioner is not guilty of any offence, much less those alleged in the FIR.

Matter was earlier adjourned to allow the learned APP an opportunity to oppose the prayer.

Learned APP has appeared. Other than confessional statement of the petitioner and the statement of co-accused, he submits that there is no material in the case diary to suggest involvement of the petitioner in the case. Based on the investigation conducted till date, he is also not able to point out that the petitioner has any antecedent of criminal nature.

In these circumstances the petitioner is in custody since 14.8.2020.

Considering the submissions as also the facts and circumstances of the case, this Court is inclined to accept the submissions of the learned Counsel for the petitioner for the limited purpose of grant of bail. There is also no material to suggest that petitioner is likely to commit any offence while on bail. The learned APP has also been allowed an opportunity to oppose the prayer for bail.

In the above considered facts and circumstances this Court is of the view that the conditions contemplated under Section 37 of the NDPS Act which are a sine qua non for grant of bail are satisfied. The bar on grant of bail under the Act therefore stands removed.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Sessions Judge -cum- Special Judge, NDPS Act, Begusarai in Barauni (Zeromile) PS Case No. 98 of 2020 subject to the following conditions:-



(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

**(Madhuresh Prasad, J)**

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