

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8810 of 2021**

Arising Out of PS. Case No.-219 Year-2020 Thana- KHUSRUPUR District- Patna

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ARVIND RAY S/O Daroga Rai Resident Of Village - Hardasbigha Bind Toli,
P. S. - Khusrupur, District - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Dr. Shraddhanand Paswan, Adv.

For the Opposite Party/s : Mr.Anand Mohan Prasad Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 16-08-2021 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 Special Case No.95 of 2020 arising out of Khushrupur P.S. Case No.219/2020 registered for the offences punishable under Sections 20(b)(ii)(c)/22(c) of the N.D.P.S. Act. He is in custody since 03.07.2020.

As per the prosecution story, the officer in-charge of Khusrupur police station got an information at about 9.00 pm on 02.07.2020 that this petitioner along with co-accused Dharmendra Kumar has stored Ganja in his house for the purpose of sale. He recorded a Sanha entry in this regard and requested the senior officer and local Magistrate to be present in

course of raid. At about 10.00 pm, the Magistrate came at the police station whereafter the officer in-charge of the police station together with some constables and the Magistrate raided the house of this petitioner and in presence of two independent witnesses they seized altogether 21 kgs and 900 gms of ganja. They also seized the weighing machine and the weights which are used in weighing Ganja. This petitioner and co-accused Dharmendra Kumar were arrested when they were tried to flee away.

The bone of contention of learned counsel for the petitioner is that the seizure list has been prepared on 02.07.2020 at about 00.30 am, the police officer has signed the same showing the date as 02.07.2020, however there is no signature of any Gazetted officer/Magistrate on the seizure list, therefore, the submission is that the raid was conducted in complete violation of Section 42 and Section 50 of the N.D.P.S. Act, 1985.

Learned counsel further submits that on the seizure list though in the right hand side an initial of C.O. has been shown but the date mentioned thereunder is 03.07.2020. It is thus his submission that the seizure list is highly suspicious and it has been prepared without following the safeguards provided

to the accused.

On the other hand, learned APP for the State has submitted that the information was received by the police officer on 02.07.2020 at 9.00 pm thereafter he made a Sanha entry in the police station, called the Magistrate and proceeded to conduct raid in the house of this petitioner. The seizure list shows the time of raid as 23:35 on 02.07.2020. The raid has been conducted in presence of two independent witnesses who are the co-villagers of the petitioner and seizure list shows counter signature of the Circle Officer who is a Gazetted Officer of the State. The date mentioned thereon is 03.07.2020 because by the time the seizure list was prepared the time had crossed the date 02.07.2020 and it was 03.07.2020 which will be evident from the FIR also because it has shown registered on 03.07.2020 at 4.00 am.

Learned APP submits that there are independent witnesses in this case and the quantity of Ganja being commercial quantity the rigours of Section 37 of the N.D.P.S. Act, 1985 would be attracted.

Considering the facts and circumstances of the case, the quantity of Ganja being a commercial quantity and the bar of Section 37 of the N.D.P.S. Act is attracted in the facts of the

present case, learned counsel for the petitioner is unable to satisfy this Court with the twin conditions mentioned in Section 37, this Court is not inclined to release the petitioner on bail. Prayer for bail is, thus, refused.

Let the trial be expedited.

Learned counsel for the petitioner submits that the charge has already been framed in this case, if it is so, the trial court is expected to proceed with the trial as early as possible.

(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’.