

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL MISCELLANEOUS No.10733 of 2021**

Arising Out of PS. Case No.-167 Year-2020 Thana- KHANPURA District- Samastipur

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GANGO RAY SON OF LATE BABU NAND RAI RESIDENT OF  
VILLAGE - HARIHARPUR KHAEDI, P.S. - KHANPUR, DISTRICT –  
SAMASTIPUR

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

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**Appearance :**

For the Petitioner/s : Mr.Mukesh Kumar No1., Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, APP

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

2      21-05-2021                      Heard learned counsel for the petitioner and learned  
APP for the State.

The petitioner in the present case is seeking regular bail  
in connection with Khanpur P.S. Case No. 167 of 2020 registered  
for the offences punishable under Sections 20(B), 11B and 8 of the  
N.D.P.S. Act, 1985.

The prosecution story in brief is that the informant who  
is the Sub-Inspector of Khanpur P.S. stated in his written report  
dated 10.09.2020 that while he was on patrolling duty along with  
other police force and reached near Hariharpur Kheri village he  
saw that on seeing the police party one person was started fleeing  
away along with one bag in his band. It is alleged that on chase,  
the said person was apprehended and on interrogation he disclosed  
his named as Gango Ray (petitioner). It is further alleged that on  
search 3 kgs of ganja was recovered from the said bag and



accordingly seizure list was prepared.

Learned counsel for the petitioner submits that the petitioner is innocent and he has been falsely implicated in the present case. Learned counsel submits that there is a recovery of 3 kgs of ganja which is much less than the commercial quantity and, therefore, the rigours of Section 37 of the Narcotic Drugs & Psychotropic Substances Act (in short 'N.D.P.S. Act') would not be attracted.

It is further submitted that the search was not conducted in presence of a Gazetted Officer and no sample was made on the spot. The petitioner is in jail in connection with this case since 11.09.2020 and he has otherwise no criminal antecedent.

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

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the petitioner that as per the prosecution altogether 3 kgs of Ganja has been recovered, though it is the case of the petitioner that the search was not conducted in presence of a Gazetted Officer and no sample was made on the spot, the quantity being much less than the commercial quantity under the N.D.P.S. Act and the petitioner having remained in jail in connection with this case since 11.09.2020, he has otherwise no criminal antecedent, there being



no submission on behalf of the State that the release of the petitioner at this stage is in any case likely to result in tampering with the evidence or interfering with the course of trial and the rigours of Section 37 of the N.D.P.S. Act would be attracted, this Court directs release of the petitioner above named on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Sessions Judge, Muzaffarpur, in connection with Khanpur P.S. Case No. 167 of 2020, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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.

The 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'.

