

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.5041 of 2022**

Arising Out of PS. Case No.-86 Year-2021 Thana- SONPUR RAIL P.S. District- Saran

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Raja Kumar @ Raju Kumar S/o- Anil Kumar Ray Resident of Village-  
Chandpura, P.S.- Raghopur, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Ramchandra Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

4      17-10-2022                      Heard learned counsel appearing on behalf of the  
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period of  
four weeks from today.

The petitioner seeks bail in connection with Sonapur  
(Hajipur) P.S. Case No. 86 of 2021 registered for the offence under  
Sections 8/20 (b), 11(c) and 22 of the Narcotic Drugs and  
Psychotropic Substance Act.

The accused/petitioner is named in the F.I.R. and is in  
custody since 29.08.2021.

The allegation against the petitioner is to have in  
possession of contraband i.e., ganja, total of 22 kg, where net weight  
after deducting the weight of plastic bag stands as 20.568 kg, as per  
report dated 14.10.2022 in furtherance of order of this Court dated  
19.09.2022.



Learned counsel appearing on behalf of the petitioner submitted that petitioner has been falsely implicated in present case, for the reason that the same has not been recovered from the conscious physical possession of this petitioner, as alleged bag not found connected in any manner with the petitioner during the course of investigation. It is also submitted that seizure list appears disputed for the reason that both witnesses of seizure list are of far location i.e., Saran, having no occasion to be present at place of recovery, which is Vaishali. It is submitted that the compliance of Section 42 and 50 of the N.D.P.S. Act was not made in present case. It is also pointed out that after deduction of the weight of plastic bag, the weight of contraband comes to 20.568 kg, which is marginal high above prescribed commercial quantity just to implicate this petitioner. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned Additional Public Prosecutor, while opposing the prayer of bail submitted that even after deducting the weight of plastic bag as per order dated 19.09.2022, the weight of contraband i.e., ganja comes to 20.568 kg, which is above than prescribed commercial quantity, where the provision of Section 37 of the N.D.P.S. Act put a barrier.

Considering the facts and circumstances as mentioned



above, as recovered quantity of alleged contraband i.e., ganja is more than commercial quantity and also by taking a guiding note of Section 37 of the N.D.P.S. Act, this Court is not inclined to grant bail to the petitioner, at present.

Accordingly, prayer of bail of the petitioner is rejected herewith.

Learned Trial Court is directed to proceed with the matter, by taking it on board, if required, on daily basis, so as trial may conclude within nine months after receiving a copy of this order.

Superintendent of Police (Rail), Muzaffarpur is directed to produced the charge-sheeted witnesses, as and when directed by the learned Trial Court/Special Court, for expeditious disposal of trial, within specified time, as directed above.

The presence of I.O./Dy. S.P., Rail before this Court is dispensed of, accordingly.

**(Chandra Shekhar Jha, J)**

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