

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18650 of 2021**

Arising Out of PS. Case No.-143 Year-2020 Thana- GWALPARA District- Madhepura

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BABAN YADAV SON OF LATE NAGESHWAR YADAV RESIDENT OF
VILLAGE-JHAJHRI P.S- GWALPARA, DIST- MADHEPURA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ravindra Kumar Singh, Adv.

For the Opposite Party/s : Mr. A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

8 25-07-2022 Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

The petitioner seeks bail in a case registered for
the offence under Sections 20(C) and 22(C) of the NDPS Act.

Recovery is of 22.880 Kgs. of Ganja.

Learned counsel for the petitioner submits that the
petitioner, who is of clean antecedent, is innocent and has
not committed any offence. In fact, according to the F.I.R.,
22.880 Kgs. of Ganja is said to have been recovered from the
possession of the petitioner. He further submits that nothing
incriminating has been recovered from the conscious
possession of the petitioner and he has no concern with the
alleged recovery of 22.880 Kgs. of Ganja. He also submits



that the petitioner is not involved in illegal dealing of Ganja. He further submits that the petitioner, who is of no fault, is rotting in judicial custody since 04.11.2020.

Learned A.P.P. for the State has, vehemently, opposed the prayer for bail of this petitioner and submits that a huge quantity to the extent of 22.880 Kgs. of Ganja falling within the purview of commercial quantity has been recovered from the possession of the petitioner. He also submits that since the recovered quantity comes under the purview of commercial quantity, the petitioner seems to be engaged in dealing with the contraband substance like Ganja. Hence, the petitioner does not deserve to be enlarged on bail.

Result of examination of Forensic Science Laboratory is as under;

“The dry, pressed, greenish brown flowering and fruiting vegetable substances contained in the cloth packet as described above was found to be ‘GANJA’ containing Tetra Hydro Cannabinol (T.H.C.) as their chief intoxicating ingredient.

‘GANJA’ is the flowering and fruiting tops of



female plant of Cannabis sativa.”

Since the quantum of recovery of Ganja in this case falls within the purview of commercial quantity, which is defined as 20 Kg., this Court intends to refer Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, which clearly depicts that the grant of bail in N.D.P.S. cases, where the recovery of commercial quantity of narcotic is alleged, is circumscribed. Section 37 says that for granting bail, the Court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences for which he has been charged, and further he is not likely to commit any offence while on bail.

This issue has also been considered by the Hon'ble Supreme Court in the case of ***State of Kerala and Ors. Vs. Rajesh & Ors.*** reported in ***2020 (12) SCC 122.***

In view of the aforesaid reference and the facts of the case, this court is of the view that the recovery of more than commercial quantity of Ganja from the possession of the petitioner, confirming the same by the F.S.L. report, would not justify that the petitioner was not involved in commission of such offence and also there is no material



available to substantiate that the petitioner would not commit such offence in the event of release. Therefore, considering the quantum of recovery of Ganja as well as the mandate of Section 37, this Court is not inclined to enlarge the petitioner on bail at this stage. Accordingly, the prayer for grant of bail to the petitioner is rejected.

However, learned trial court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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