

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9393 of 2022

Arising Out of PS. Case No.-335 Year-2021 Thana- GAIGHAT District- Muzaffarpur

Arun Kumar, Son Of Sakindra Rai, Resident Of Village- Bharat Nagar, P.S.-
Gaighat, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Madhusudan Kumar, Advocate

For the Opposite Party/s : Mr.Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 14-12-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

In the present case, the petitioner seeks bail in
connection with N.D.P.S. Case No. 137 of 2021 arising out of
Gaighat P.S. Case No. 335 of 2021 registered for the alleged
offences under Sections 8, 20 and 22 of the N.D.P.S. Act.

As per prosecution case, police received information
about petitioner trading in *ganja* from his house. A raid was
conducted and the petitioner tried to run away on seeing the
police party but he was apprehended after chase. From the
house of the petitioner, recovery of about 9kg of *ganja* was
made beneath a bed.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. Nothing incriminating has been recovered from the conscious possession of this petitioner. Recovery has been shown from a house but it is a joint house in which the father and uncle along with other family members of the petitioner also reside. So it could not be said that the recovery was made from the possession of this petitioner. The witnesses who allegedly witnessed the search and seizure retracted their statements and have sworn affidavits before the learned Special Judge that they were forced to put their signature on blank paper and no raid was conducted on the house of the petitioner and no recovery of *ganja* was made from it. Learned counsel further submits that there is complete non-compliance of Sections 40, 42 and 50 of the N.D.P.S. Act which are mandatory provisions. The alleged recovery is much less the commercial quantity though it is more than the small quantity as notified by Government of India. Petitioner is in custody since 24.09.2021 and charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that the recovery has been made from the house of the petitioner and it is nine times the small quantity. The statements of



witnesses of the seizure list has also been recorded under Section 161 of Cr.P.C. and they have stated they willingly attested it. Learned APP further submits that the seized contraband was sent to Forensic Science Laboratory and it was found to be *ganja*.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the recovery of 9kg of *ganja* has been shown from the house of the petitioner, I am not inclined to grant bail to the petitioner. Hence, the prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and conclude the same preferably within a period of nine months.

(Arun Kumar Jha, J)

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