

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21131 of 2021**

Arising Out of PS. Case No.-369 Year-2020 Thana- GHORASAHAN District- East
Champaran

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BHAGYA NARAYAN RAI @ BHAGYA NARAYAN YADAV S/o Nagina
Ray R/o village- Ghoghiya Bhatu Tola, P.S.- Jitna, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma, Advocate
For the Opposite Party/s : Mr.Arun Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 18-02-2022 Due to the third wave of COVID-19 Pandemic, the

matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

Learned Counsel for the petitioner is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in connection
with N.D.P.S. case No.40 of 2020 arising out of Ghorasahan P.S.
case No.369 of 2020 registered under Sections 20, 22 and 23 of
the N.D.P.S. Act.



Prosecution case, in short, is that 9 kgs ganja is recovered.

It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The name of the petitioner has transpired in this case on the basis of secret information as per F.I.R. The source and genuineness of the secret information has not been disclosed by the prosecution. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in this case. It is alleged that 9 kgs ganja is recovered from the motorcycle. The petitioner is not the owner of the motorcycle in question. Recovered contraband is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

On behalf of the State, it is submitted that the petitioner is named in the complaint case/F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of



covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.

Considering the facts and circumstances, the petitioner, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned 3rd Additional Sessions Judge, Motihari, East Champaran in connection with N.D.P.S. case No.40 of 2020 arising out of Ghorasahan P.S. case No.369 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

Narendra/-

(Sudhir Singh, J)

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