

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22623 of 2021**

Arising Out of PS. Case No.-20 Year-2020 Thana- NARHATT District- Nawada

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SANJAY PRASAD @ SANJAY SINGH S/O LAKHAN MAHTO R/O
VILLAGE-GOWASA, P.S-NARHAT, DISTRICT-NAWADA.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prithivi Raj Singh, Adv.
For the Opposite Party/s : Mr. Rajesh Kumar, A.PP

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

6 09-02-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State through video conferencing.

The petitioner seeks bail in connection with Narhat P.S. Case No. 20 of 2020 registered for the offence under Sections 8(b)(c), 20(a)(b) of the N.D.P.S. Act.

Recovery is of 60 kg. of Ganja.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. In fact, nothing has been recovered from the conscious possession



of the petitioner rather the alleged recovery has been made from the back side of house of the petitioner. He further submits that the petitioner has no concern with the alleged recovery. The petitioner is rotting in judicial custody since 30.11.2020.

Learned A.P.P. for the State has, vehemently, opposed the prayer for bail of the petitioner and submits that the land in which the plant like Ganja has been recovered belongs to the petitioner. He further submits that the F.S.L. report also confirms that the said plant as alleged in this case is Ganja and comes within the purview of N.D.P.S. Act.

Since the quantum of recovery of Ganja in this case falls within the purview of commercial quantity, 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 huge quantity of Ganja confirming the same by the F.S.L. report would not justify that the petitioner had no knowledge of narcotic substance kept in his land or he 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, the learned trial court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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