

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17912 of 2022**

Arising Out of PS. Case No.-13 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

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KALLU SAHNI SON OF LATE SHYAMBABU SAHNI R/O -
KAMLALICHAK, DEVI ASTHAN, P.S.- BYE-PASS, DISTRICT- PATNA

... .. Petitioner/s

Versus

1. The State of Bihar
2. THE UNION OF INDIA THROUGH NARCOTIC CONTROL BUREAU,
NEW DELHI , INDIA NEW DELHI

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vinod Gautam, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-09-2022 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(b)(ii), C, 25 and 29 of the NDPS Act.

Recovery is of 1223.7 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., 1223.7 Kgs.
of Ganja is said to have been recovered from the truck of which
petitioner is said to be Khalasi. 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 1223.7 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 05.06.2021.

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 1223.7 Kgs. of Ganja falling within the purview of commercial quantity has been recovered from the truck in question of which the petitioner was khalasi. 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. He further submits that the F.S.L. report also confirms that the recovered article is Ganja. Hence, the petitioner does not deserve to be enlarged on bail.

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 alleged truck of which he is said to be khalasi, confirming the same by the F.S.L. report, would not justify that the petitioner had no knowledge of Ganja kept in the truck 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, learned trial court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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