

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21263 of 2022

Arising Out of PS. Case No.-51 Year-2021 Thana- KHAGARIA RAIL P.S. District- Khagaria

PANDAV KUMAR S/o Late Yogendra Ram R/o village- Lauva Lagan, Ward
No. 04, P.S.- Chausa, Distt.- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saroj Shandilya, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 26-08-2022 Heard learned counsel appearing on behalf of the

petitioner and learned counsel appearing on behalf of the State,

through Virtual Court Proceedings.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Khagaria
Rail P.S. Case No. 51 of 2021 registered for the offence under
Section 20(b)(ii)(B) of N.D.P.S. Act, 1985.

The accused/petitioner is named in the F.I.R. and is in
custody since 20.12.2021.

The allegation against the petitioner is to have in
possession of contraband i.e. Ganja of 1.70 kg.

Learned counsel appearing on behalf of the petitioner
submitted that alleged bag from where the contraband was



recovered in no manner connected with the petitioner, as such recovery of alleged contraband i.e. Ganja cannot be said to be recovered from conscious physical possession of the petitioner. It is also submitted that the compliance of Section 50 of NDPS Act as regard to search upon person has not been done, in the present case. It is also submitted that recovered quantity is less than commercial quantity, as such, Section 37 of the NDPS Act is not applicable in this case. It is also submitted that petitioner is a man of clean antecedent. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that recovery of contraband i.e. “*Ganja*” is less than commercial quantity.

Considering the facts and circumstances as mentioned above, as compliance of Section 50 of NDPS Act appears to be doubtful in the present case, where recovery of “*Ganja*” is less than commercial quantity coupled with the fact that charge-sheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Khagaria Rail P.S. Case No. 51 of 2021 on furnishing bail bond



of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge-Vth, Khagaria/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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