

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23399 of 2022**

Arising Out of PS. Case No.-63 Year-2022 Thana- HARLAKHI District- Madhubani

Rahul Sah, S/O Surendra Sah, R/o Village- Pipraun, P.S.- Harlakhi, District- Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Murari Narain Chaudhary, Advocate Mr. Vijay Kumar, Advocate
For the Opposite Party/s :	Mr. APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-08-2022 Heard Mr. Murari Narain Chaudhary, learned
appearing on behalf of the petitioner and learned Additional
Public Prosecutor of the State

The petitioner seeks regular bail, who is in custody in connection with Harlakhi P.S. Case No. 63 of 2022 registered for the offences punishable under Sections 20/22 of the N.D.P.S Act.

As per the prosecution case, it is alleged that on a secret information, a special patrolling team was constituted and the petitioner was apprehended, and on search being made, total 10.750 kg of Ganja was recovered.

Learned counsel appearing on behalf of the petitioner submits that in fact the alleged recovery has not been made from the possession of this petitioner, rather on account of some



altercation took place between the police party and the accused persons, the name of the petitioner has been implicated in this only on suspicion. It is further submitted that the alleged recovered Ganja like substance is though more than smaller quantity, but much below the commercial quantity, and as such the rigour provided under Section 37 of the N.D.P.S Act would not be applicable. It is next submitted that though the Ganja like substance has been shown to be recovered from the possession of the petitioner, but it has not ever been sent to the Forensic Science Laboratory for its chemical examination and without obtaining the FSL report, the charge-sheet has been submitted, which vitiates the entire prosecution case. It is also submitted that there is no compliance of Sections 43 and 50 of the N.D.P.S Act and moreover, the petitioner is in custody since 11.03.2022.

On the other hand, learned counsel for the state opposes the prayer for bail application and submits that the petitioner was caught red-handed and from his possession 10.750 kg of ganja was recovered.

Having regard to the submissions made on behalf of the parties and considering the fact that the alleged recovered ganja is much below the commercial quantity and, as such, the



rigors of Section 37 of the N.D.P.S Act would not be applicable, apart from the fact that the charge-sheet has been submitted without obtaining the FSL report, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, NDPS Act, Madhubani in connection with Harlakhi P.S. Case No. 63 of 2022 subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the



court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification..

(Harish Kumar, J)

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