

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25796 of 2022

Arising Out of PS. Case No.-593 Year-2021 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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MITHUN KUMAR YADAV SON OF MR. SUKHRAM YADAV R/O
VILLAGE- THALESHARI, LAL SARIYA, P.S.- MAJHAWLIYA,
DISTRICT- WEST CHAMPARAN

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vaishnavi Singh

For the Opposite Party/s : Mr.Bharat Lal

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 16-08-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

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

The petitioner seeks bail in connection with Sadar P.S.
Case No. 593 of 2021 and NDPS Case No. 121 of 2021
registered for the offence under Sections 08/20(b)(ii)(c) of the
NDPS Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 31.08.2021.

The allegation against the petitioner is to have in
possession of 14.2 kgs contraband i.e. '*Ganja*'.

Learned counsel appearing on behalf of the petitioner



submitted that recovery of alleged contraband i.e. '*Ganja*' cannot be said from conscious physical possession of the petitioner in the given set of facts and circumstances. It is also submitted that compliance of Section 50 of NDPS Act, as regard to search upon the person was also not complied with. It is also submitted that Section 37 of the NDPS Act, is not applicable in the present for the reason that the recovered quantity of contraband i.e. '*Ganja*' is less than commercial quantity, in the present case. It has further been submitted that similarly situated co-accused person has already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. Misc. No. 7167 of 2022 dated 26.05.2022. 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 recovered contraband is less than commercial quantity.

Considering the facts and circumstances as mentioned above and also considering the manner of compliance of Section 50 of NDPS Act coupled with the fact that recovered contraband i.e. '*Ganja*' is less than commercial quantity, where charge-sheet



has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Sadar P.S. Case No. 593 of 2021 and NDPS Case No. 121 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 Special Judge NDPS, Muzaffarpur/concerned court, subject to the condition as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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