

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.26543 of 2022**

Arising Out of PS. Case No.-10 Year-2021 Thana- BHANGHA District- West Champaran

Shankhlal Gole @ Sunkh Lal Gole @ Bahadur, Son of Sher Bahadur Gole,  
R/O Village- Nirmal Basti, P.S.- Vijay Basti, District- Parsa, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      23-08-2022                      At the outset, learned counsel for the petitioner seeks permission to make necessary correction in para 15 of the bail application.

Permission is accorded.

Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Bimlesh Kumar Pandey, learned counsel for the petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bhangaha P.S. Case No. 10 of 2021, giving rise to Trial No. 18 of 2021, registered for the offences punishable under Sections 20, 21, 23, 24, 27 of the N.D.P.S. Act.

As per prosecution case, it is alleged that the police on



a secret information that a huge consignment of contraband material is to be smuggled to India from Nepal, intercepted some persons, however, on noticing the police party, one of the person tried to flee away by throwing his bag, which was allegedly carried by him. Later on, the police apprehended the person, who disclosed his name as Sankh Lal Gole @ Bahadur and on search 12.200 Kg of Ganja like substance has been recovered from the said bag.

Learned counsel appearing on behalf of the petitioner submits that admittedly nothing has been recovered from the person or possession of this petitioner and the recovery is said to have been made from a bag, which has not at all any concern with the petitioner. It is further submitted that the alleged recovered Ganja like substance is certainly more than smaller quantity, but below the commercial quantity and, as such, the rigors provided under Section 37 of the NDPS Act would not be applicable in the present case and moreover the charge-sheet has been submitted without obtaining the FSL report, which also vitiates the investigation of the present case. Learned counsel for the petitioner has drawn the attention of this Court towards the production-cum-seizure list and submits that it would suggest that there is no signature of the petitioner and moreover



the recovery has not been shown to be made from the possession of the petitioner. It is lastly submitted that the petitioner is in custody since 11.02.2021.

On the other hand learned APP for the State vehemently opposes the bail application and submits that the petitioner was arrested along with the huge quantity of Ganja.

Having regard to the submissions made on behalf of the parties and considering the fact that the alleged recovery has not been made from the conscious possession of the petitioner and moreover the recovery is below the commercial quantity and as such the rigors provided under Section 37 of the NDPS Act would not be applicable in the present case and the petitioner is in custody since 11.02.2021, having clean antecedent, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional sessions Judge-III, Bettiah, West Champaran in connection with Bhangaha P.S. Case No. 10 of 2021 (Trial No. 18 of 2021), subject to the condition that one of the bailors will be the local residents with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the



trial.

(ii) He will remain physically 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.

**(Harish Kumar, J)**

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