

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28587 of 2022

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

Anshu Kumar Son of Sachchidanand Yadav Resident of Village - Laua Lagan
Ward No. 07, P.S. - Chausa, District - Madhepura, State- Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raghwendra Pratap Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 02-09-2022 Heard learned counsel appearing on behalf of the

petitioner and learned APP 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 1.70 kg of contraband i.e. 'Ganja'.

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



recovered is not 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. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and, moreover, investigation in this case is complete for which chargesheet has 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.

In view of 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 chargesheet 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 Special Judge, NDPS, Khagaria/concerned court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

Ankit/-

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