

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28746 of 2022

Arising Out of PS. Case No.-389 Year-2021 Thana- BUXAR MUFFSIL District- Buxar

Santosh Paswan Son of Sidhanath Paswan R/o Village - Mahadah, P.S.- Buxar
(M), District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
	:	Mr. Ram Niwas Prasad, Advocate
	:	Mr. Kumar Rajdeep, Advocate
For the State	:	Mr. Parmanand Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 13-09-2022 Heard learned senior counsel appearing on behalf of
the petitioner and learned APP 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 Buxar
Muffasil P.S. Case No. 389 of 2021 registered for the offence
under Section 414 of the Indian Penal Code, Sections 25(1-b)a,
26 and 35 of the Arms Act and Sections 20(b), 22(c) and 29 of
the NDPS Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 22.10.2021.

The allegation against the petitioner is to have in
possession of one loaded country made pistol, two live



cartridges and a total of 5.184 kg of contraband i.e., '*Ganja*'.

Learned senior counsel, Mr. N.K. Agrawal, appearing on behalf of the petitioner submitted that the alleged recovery of fire arm and contraband i.e., '*Ganja*' cannot be said to be made from the conscious physical possession of the petitioner. It is submitted that seizure list is appearing doubtful, as same is supported by police constable and not by independent witnesses. It is further submitted that compliance of Sections 42 and 50 of the NDPS Act has not made in the present case. It is submitted that as quantity of contraband i.e., '*Ganja*' alleged to be recovered is less than commercial quantity, provision of Section 37 of the NDPS Act is also not applicable in the present case. It is submitted that petitioner has been implicated in the present case due to his criminal antecedents. While concluding the argument, it is submitted that 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 appearing on behalf of the State, while opposing the prayer of bail, fairly conceded the fact that recovered contraband i.e., '*Ganja*' is less than commercial quantity.

In view of the facts and circumstances, as mentioned



above, as recovery of contraband i.e., '*Ganja*' is less than commercial quantity, in the background of disputed seizure list 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 Buxar Muffasil P.S. Case No. 389 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-II, Buxar/concerned Court, subject to the following conditions:

“(i) That accused/petitioner shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the petitioner.

(ii) That accused/petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner, duly supported by



the documents.

(iii) That one of the bailors shall be
Ramji Paswan, who is the cousin brother of
the petitioner and deponent of the present
bail petition.”

(Chandra Shekhar Jha, J)

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