

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29334 of 2022**

Arising Out of PS. Case No.-772 Year-2021 Thana- AKBARPUR District- Nawada

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Bhago Yadav @ Bhagwat Yadav son of Late balo yadav Resident of Village-
Farha, Police Station - Akbarpur, District - Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Man Mohan Kumar, Advocate
For the Opposite Party/s : Mr. Anil Kumar Singh No.1, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 26-07-2022 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 Akbarpur
P.S. Case No. 772 of 2021 registered for the offence under
Sections 8(b) and 20(a)(b) of the NDPS Act, 1985.

The accused/petitioner is named in the F.I.R. and is in
custody since 31.12.2021.



The allegation against the petitioner is to cultivate the contraband i.e., Ganja, where there is recovery of six green plants of cannabis, having total weight of 21.9 Kg.

Learned counsel appearing on behalf of the petitioner submitted that, admittedly, as per seizure list, the green plants of cannabis has been recovered from the field, which is not connected, in any manner, with the petitioner. It is submitted that, as per definition contained in Section 2(iii)(b) of NDPS Act, 1985, Ganja is the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), if that part is taken into consideration, then certainly, the quantity would be less than commercial quantity, as mentioned in the seizure list. It is further submitted that as the plant is green and there is probability that quantity is not appearing commercial, provision of Section 37 of the NDPS Act is not attracted. It is also submitted that seizure list is disputed, as same is not supported by independent witnesses. 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 appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that the recovered contraband are 6 green plants of cannabis.

In view of the facts and circumstances, as mentioned above, as alleged recovery of green plant is from the field, which is not connected, *prima facie*, with the petitioner in any manner coupled with the fact that petitioner is a man of clean antecedent where chargesheet has already been submitted, let the petitioner, above named, is directed to be released on bail in connection with Akbarpur P.S. Case No. 772 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 Sessions Judge, Nawada/concerned Court, subject to the following conditions:

“(i) 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.



(ii) That one of the bailors shall be
Birendra Kumar, who is the son of the
petitioner and deponent of the present bail
petition.”

(Chandra Shekhar Jha, J)

Ankit/-

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