

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41038 of 2021

Arising Out of PS. Case No.-378 Year-2020 Thana- NAUBATPUR District- Patna

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PRAKASH KUMAR S/o Mahesh Singh @ Mahesh Sharma R/o village-
Chhotaki Baliyari, Arap, P.S.- Bikram, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Chandra Bhushan Prasad

For the Opposite Party/s : Mr.Satya Nand Shukla

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 06-01-2022 The matter has been taken up for online hearing through video conference because of COVID-19 pandemic restrictions.

Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

This application for regular bail arises out of Special Case No. 105 of 2020, arising out of Naubatpur P.S. Case No. 378 of 2020, disclosing the offence punishable under Sections 8, 20(b)(ii)© and 22 of the N.D.P.S. Act.

From the First Information Report, it transpires that on the basis of secret information received by the police regarding illegal trade of *Ganja*, four persons were arrested. Altogether 21 kg of *Ganja* was recovered from their personal



possession on search. The said quantity is admittedly commercial quantity.

Learned counsel appearing on behalf of the petitioner, however, submits that from the petitioner's possession only 6.400 kg. of *Ganja* was recovered and, therefore, the quantity recovered from the petitioner's possession cannot be said to be commercial. He has submitted that similarly circumstanced co-accused Randheer Kumar, from whose possession 5.700 kg. of *Ganja* was recovered, has been allowed regular bail by this Court by an order dated 29.11.2021. In response to a query made by this Court as to whether while allowing regular bail to the said co-accused Randheer Kumar Section 37 of the NDPS Act, 1985 was noticed or not, he has fairly agreed that the order does not reflect so.

In my opinion, the offence relates to recovery of 21 kg of *Ganja* in one transaction at the same place out of which 6.400 kg *Ganja* was recovered from the petitioner's possession. In view of the bar under Section 37(b) of the NDPS Act, in my opinion, no case for grant of regular bail is made out, also, in the background of the fact that the petitioner has criminal antecedent, as mentioned in paragraph-3 of the application.

This application is accordingly rejected. The Court,



however, expects the learned court below to take steps for expeditious disposal of the trial.

(Chakradhari Sharan Singh, J)

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