

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.37343 of 2022**

Arising Out of PS. Case No.-118 Year-2022 Thana- NAUGACHIA District- Bhagalpur

Mithilesh Kumar Mandal @ Mithilesh Kumar @ Mithilesh Mandal S/O Nand
Kishor Mandal Resident of Jhouwari, P.S.- Rupauli (Akbarpur), District-
Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md Fazle Karim, Advocate

For the Opposite Party/s : Mr. Kalyan Shankar, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 22-08-2022 Heard learned 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
Naugachia P.S. Case No. 118 of 2022 registered for the offence
under Sections 8, 20b and 22b of the Narcotic Drugs and
Psychotropic Substances Act and Section 37(B)(C) of the Bihar
Prohibition and Excise Act, 2016.

The accused/petitioner is named in the F.I.R. and is in
custody since 11.05.2022.

The allegation against the petitioner is to have in
possession of 1.400 kg of contraband i.e., Ganja, in drunken



condition.

Learned counsel appearing on behalf of the petitioner submitted that nothing surfaced during the course of investigation, which may connect the petitioner, *prima facie*, with the alleged bag, from where contraband i.e., Ganja of about 1.400 kg was recovered. It is submitted that compliance of Section 50 of the N.D.P.S. Act, as regard to search upon the person, was not made. It is further submitted that the alleged recovered contraband i.e., Ganja is less than commercial quantity, as such, provisions of Section 37 of the N.D.P.S. Act is not applicable in the present 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 appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovery of alleged contraband i.e., Ganja is less than commercial quantity, as per F.I.R.

In view of the facts and circumstances, as mentioned above, as compliance of Section 50 of the N.D.P.S. Act appears to be doubtful on its face, where the alleged recovery of



contraband i.e., 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 Naugachia P.S. Case No. 118 of 2022 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, Exclusive Excise Court No.2, Bhagalpur/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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