

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.41323 of 2022**

Arising Out of PS. Case No.-289 Year-2021 Thana- BAISI District- Purnia

Md. Sultan Son Of Makbul Hussain @ Maulana Makbul Resident Of Dalkola  
Uttar Basti, Ward No.-15, P.S.- Dalkola, District- North Dinajpur, West  
Bengal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Mritunjay Kumar, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL ORDER**

2      14-10-2022                      Heard learned counsel for the petitioner and learned  
APP for the State through virtual court proceeding.

Let the defect (s), as pointed out by the office, be  
removed within a period of four weeks.

In the present case, the petitioner seeks bail in  
connection with Special Case No.73 of 2021/ CIS No. 69 of  
2021 (NDPS Act) arising out of Baisi P.S. Case No. 289 of  
2021 registered for the alleged offences under Section 414 of  
the Indian Penal Code and Sections 8/20(b)/(ii)(c), 25 of the  
N.D.P.S. Act.

As per prosecution case, police received secret  
information about a person bringing some contraband in a  
scooty and going towards Purnia. During checking of the



vehicles, a Scooty was intercepted and the person driving it was apprehended after chase. From this scooty, 1 kg 30 gm of *ganja* was recovered. Since no documents for the two wheeler were shown it was stated to be stolen vehicle.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. The real culprit who was driving the allegedly seized vehicle fled away and the police apprehended this petitioner who is a daily wage earner to show the arrest of the culprit. The petitioner has no concern with the allegedly recovered contraband or with the two wheeler. There being no specific case of theft for the recovered/seized Scooty, there will be no application of Section 414 of I.P.C. as the owner of the said Scooty has also been made accused in this case. Learned counsel further submits that the mandatory provisions of N.D.P.S Act and Code of Criminal Procedure have not been followed in search and seizure. The weight of the allegedly recovered ganja is stated to be 1 kg 30 gm in First Information Report but the same is said to be 1 kg 117 gm at the time of certification before the learned Magistrate which is at variance to the original claim. It is also a fact that recovery has been shown just a little more than smaller quantity of 1 kg and much less than the commercial quantity of 20 kg as



prescribed under N.D.P.S Act. Thereafter, without any forensic examination, informant recorded his finding that seized material is *ganja* and submitted the F.I.R. The police in a haste submitted it without following the procedure under the law and without the test report of the seized material from the Forensic Lab. Charge sheet has been submitted in this case and the petitioner is in custody since 05.10.2021. The petitioner is having clean antecedent.

Learned APP for the State opposes the prayer for bail of the petitioner submitting that recovery of more than 1 kg of *ganja* has been made from this petitioner.

Having regard to the submission made on behalf of the parties and considering the quantity of ganja recovered along with period of custody of this petitioner and also considering his clean antecedent along with submission of charge sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S Act, Purnea in connection with Special Case No. 73 of 2021/C.I.S No. 69 of 2021 (N.D.P.S Act) arising out of Baisi P.S. Case No. 289 of 2021, subject to the conditions mentioned in Section 437(3) of



the Code of Criminal Procedure and also the following conditions:

(i) One of the bailors will be a close relative of the petitioner.

(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

**(Arun Kumar Jha, J)**

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