

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.55059 of 2021**

Arising Out of PS. Case No.-124 Year-2021 Thana- DURGAWATI District- Kaimur (Bhabua)

Akshaibar Singh @ Akshayvar Singh @ Akshaywar Singh, Son of Late  
Bihari Singh, Resident of Village- Phachakari, P.S.- Meja, District- Allahabad  
(Uttar Pradesh)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Saroj Kumar, Advocate  
For the Opposite Party/s : Mr. Madhura Nand Jha, APP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL ORDER**

3      05-09-2022              Learned counsel for the petitioner is permitted to  
remove the defect(s), as pointed out by the office, within a  
period of four weeks from today.

Heard Mr. Saroj Kumar, learned counsel for the  
petitioner and learned APP for the State.

The petitioner seeks regular bail, who is in custody in  
connection with Durgawait P.S. No. 124 of 2021 registered for  
the offences punishable under Sections 8(c)/20(b)(ii)(B)/29 of  
the Narcotic Drugs and Psychotropic Substances (NDPS) Act,  
1985.

As per prosecution case, it is alleged that the  
petitioner along with co-accused Rambhawan Thakur was



apprehended with 15 kg of Ganja, which was carried by them, keeping it on a motorcycle.

Learned counsel for the petitioner submits that so far the alleged recovery is concerned, the same has been recovered from the joint possession of the petitioner and another co-accused Rambhawan Thakur. He next submits that the recovered Ganja is less than commercial quantity and as such the rigors provided under Section 37 of the Narcotic Drugs and Psychotropic Substances Act would not be applicable. He also submits that the police after investigation submitted charge sheet, without obtaining F.S.L. Report, which vitiates the entire investigation. He next submits that the petitioner, having fair antecedent, is in custody since 05.06.2021, apart from the fact, there is no compliance of Section 50 of the NDPS Act. While concluding the submissions, learned counsel for the petitioner submits that so far co-accused Rambhawan Thakur is concerned, he had also come before this Hon'ble Court in Cr. Misc. No. 45530 of 2021 and the learned co-ordinate Bench of this Court vide order dated 15.11.202 directed to release the petitioner (Rambhawan Thakur) once charge is framed and trial commences, and now the said petitioner has already been released from custody.



On the other hand, learned APP for the State opposes the bail application and submits that the petitioner was apprehended with huge quantity of Ganja.

Regard being had to the submissions made on behalf of the parties and considering the fact that the alleged recovered Ganja like substance is below the commercial quantity and, moreover, co-accused person, having identical allegation, has already been released from custody after framing of the charge, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge, Kaimur at Bhabua in connection with Durgawati P.S. Case No. 124 of 2021 subject to the condition that one of the bailors will be the local residents with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

**(Harish Kumar, J)**

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