

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7271 of 2021**

Arising Out of PS. Case No.-369 Year-2020 Thana- GHORASAHAN District- East
Champaran

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Tribhuwan Kumar @ Tribhuwan Rai Son Of Rajeshwar Rai Alias Nageshwar
Rai Resident Of Village - Regniya, P.S. - Jitna, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate
For the Opposite Party/s : Mr. Syed Ehteshamuddin, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 18-02-2022 Due to the third wave of COVID-19 Pandemic, the
matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the Office, within a period
of four weeks after restoration of normalcy.

The petitioner is apprehending his arrest in a case
registered under Sections 20, 22 and 23 of the N.D.P.S. Act.

The prosecution allegation, in short, is that 9 kg ganja
has been recovered from motorcycle.



It has been submitted on behalf of the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. 9 kg ganja is recovered from the motorcycle. The petitioner is not the owner of the motorcycle. The name of the petitioner has come on the basis of secret information as per F.I.R. The source and genuineness of the secret information has not been disclosed by the prosecution. The recovered contraband is below the commercial quantity. Hence, Section 37 of the N.D.P.S. Act is not applicable in the present case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R.

It is necessary to indicate here that this Court while considering the prayer made in the present anticipatory bail application has taken note of the exponential rise in number of covid cases due to outbreak of third wave of Covid-19 pandemic. Further this Court can also not lose sight of the fact that the condition of jails is not conducive and suitable to the present situation which has arisen due to the sudden rise in covid cases.



Considering the aforesaid facts and circumstances, the petitioner, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bonds to the satisfaction of learned 3rd Additional Sessions Judge, East Champaran at Motihari in connection with N.D.P.S. Case No. 40 of 2020 arising out of Ghorasahan P.S. Case No. 369 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Once the normalcy is restored, the petitioner shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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