

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63963 of 2021

Arising Out of PS. Case No.-57 Year-2021 Thana- ALIPUR District- Gaya

Virin Niwas Yadav @ Birin Yadav @ Biri Yadav, Son of Kuldip Yadav,
Resident of Village- Akhanpur Balapar, P.S.- Alipur, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No2, Advocate

For the Opposite Party/s : Mr. Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 24-08-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with N.D.P.S. Case No. 45 of 2021 arising out of Alipur P.S. Case No.57 of 2021 registered for the alleged offences under Sections 8 and 20(b)(ii)(A) of the Narcotic Drugs and Psychotropic Substances Act.

As per the prosecution case, police received information about the petitioner keeping *ganja* at his house and doing its illicit trade. A raid was conducted and from the place near the stairs of the house of the petitioner, recovery of 1kg of *ganja* was made. The petitioner escaped from the spot.



The learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. He was not apprehended from the spot and nothing incriminating has been recovered from his conscious possession. The house from where *ganja* is stated to be recovered does not belong to this petitioner and it is abandoned house accessible to all. The seizure list is forged and fabricated as it contains at the top the police station case number, when the recovery is stated to be made from the place of occurrence. So the same appears to be prepared at the police station. There has been no proper compliance of Section 100 Cr.P.C. The quantity of *ganja* is just the small quantity. The petitioner is in custody since 08.08.2021 and the charge sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that recovery has been made from the house of the petitioner who fled away from the spot, when the raid was being conducted. FSL report has been received which shows the contraband recovered is *ganja*. The petitioner is having criminal antecedent.

Perused the records.

Having regard to the submissions made on behalf of the parties and considering the fact that recovery has been made of small quantity of *ganja* and the petitioner was not apprehended from the spot and further considering the period of his custody and



the submission of the charge-sheet in this case, 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 District and Sessions Judge, Gaya in connection with NDPS Case No. 45 of 2021 arising out of Alipur P.S. Case No.57 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

- (i) The bail bond of the petitioner will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be Shrinivas, brother of the petitioner, who has sworn the affidavit in this case.
- (iii) The petitioner will remain present on each and every date fixed by the court below.
- (iv) 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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