

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67096 of 2021**

Arising Out of PS. Case No.-248 Year-2020 Thana- MURLIGANJ District- Madhepura

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DILIP KUMAR @ DILIP YADAV S/O LATE CHEDI PRASAD YADAV R/o
village- Belokala Ward No. 1, P.S.- Murliganj, District- Madhepura

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Singh

For the Opposite Party/s : Mr.Tapeshwar Sharma

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 20-09-2022 Let the defect(s), as pointed out by the office, be

removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with NDPS
Case No. 11 of 2020 arising out of Murliganj P.S. Case No. 248
of 2020 registered for the offences punishable under Sections
20, 22 of N.D.P.S. Act.

As per prosecution case, there is alleged recovery of
54.500 kg of Ganja from the house of the petitioner.

Learned counsel for the petitioner submits that
petitioner is in custody since 13.03.2021. Petitioner bears no
criminal history. He also submits that alleged recovery has been
made from joint family house of petitioner. He also submits that



no such occurrence as alleged in the FIR has ever taken place. The mandatory provision of search and seizure under Section 50 of NDPS Act has not been followed.

The learned A.P.P. for the State submits that 54.500 kg of Ganja was recovered from the house of the petitioner which is more than commercial quantity.

As per Narcotic Drugs and Psychotropic Substances Act, 1985, commercial quantity of Ganja is 20 kg. and the small quantity of Ganja is 1000 gm. but the recovery in the present case is of 54.500 kg Ganja which is more than the commercial quantity.

The grant of bail in NDPS cases where the recovery of commercial quantity of Narcotic is alleged is circumscribed under Section 37 of Narcotic Drugs and Psychotropic Substances Act, 1985, which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar offence.

The issue was considered by the Hon'ble Supreme Court in the case of *State of Kerala and Ors. Vs. Rajesh and Ors.*, reported in **2020(12) SCC 122**.

The FSL report dated 30.09.2021 also confirms that



the substance is Ganja. The recovery of commercial quantity of Ganja from the possession of the petitioner would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Considering the facts and circumstances of the case, nature of allegation levelled against the petitioner coupled with FSL report and also taking into consideration the material available on record, I am not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of petitioner is hereby rejected.

However, the learned trial court is directed to expedite the trial and conclude the same as early as possible.

(Alok Kumar Pandey, J)

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