

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67744 of 2021**

Arising Out of PS. Case No.-716 Year-2021 Thana- KHAGARIA District- Khagaria

KISHAN KUMAR S/o Arun Ram Resident of Village - Sanhauili Ward No.-6,
P.S.- Chitragupta Nagar (Khagaria), District - Khagaria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Arun Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

3 06-07-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

The petitioner seeks bail in connection with Khagaria
(Chitragupta Nagar) P.S. Case No. 716 of 2021 registered for
the offence under Sections 420, 406 and 34 of the Indian Penal
Code and Section 8, 20(b)(ii) and 22 of NDPS Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 10.09.2021.

The allegation against the petitioner is to have in
possession of contraband i.e. Ganja, total of 3.3 kg.

Learned counsel appearing on behalf of the petitioner
submitted that recovery has been made from partly constructed



house of co-accused, namely, Rampukar Sahni and it cannot be said that the recovery has been made from the conscious physical possession of the petitioner. It has further been submitted that recovered quantity is less than commercial quantity and as such provision under Section 37 of NDPS Act is not attracted, in the present case. It has been submitted that petitioner is a man of clean antecedent. It has further been submitted that investigation has been completed, for which, charge-sheet has already been submitted in this case, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that recovery has not been made from conscious physical possession of the petitioner.

Considering the facts and circumstances as mentioned above, as recovery of contraband i.e. Ganja has not been made from the conscious physical possession of the petitioner, who is a man of clean antecedent coupled with the fact that charge-sheet has already been submitted in this case, let the petitioner, above named, is directed to be released on bail in connection with Khagaria (Chitragupta Nagar) P.S. Case No. 716 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of



learned Sessions Judge-cum-Special Judge (NDPS), Khagaria,
subject to the following conditions:

“(i) Accused/Petitioner shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioner duly supported by the documents.

(ii) That one of the bailors shall be Arun Ram, who is the father of the petitioner and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

S.Katyayan/
R.S. Sen/-

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