

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69275 of 2021**

Arising Out of PS. Case No.-44 Year-2021 Thana- DEODHA District- Madhubani

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Raj Kumar Mukhiya, S/o Late Ram Narayan Mukhiya, R/o village- Pithawa
Tol, P.S.- Deodha, District- Madhubani

... .. Petitioner/s

Versus

The Union of India Through (ops) Party Commander Uin-11270680 As/Up
Indeshwar Nath New Delhi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Viveka Nandsingh, Advocate
For the Opposite Party/s : Mrs.Punam Kumari Singh (C.G.C.)

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 26-09-2022 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 G.R. No. 11 of 2021 arising out of Deodha P.S.
Case No. 44 of 2021 registered for the alleged offences under
Sections 8, 20(b)(ii)(c), 25 and 29 of the Narcotic Drugs and
Psychotropic Substance Act.

As per prosecution case, the petitioner was
apprehended and from his possession 2kg 50 grams of *ganja*
was recovered.



The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case merely on suspicion. There is total non-compliance of the mandatory provisions of Sections 42, 43 and 55 of the N.D.P.S. Act so far as it relates to the entry, search, seizure and arrest and it was done in the absence of Gazetted Officer. The allegedly recovered contraband was not seized at the place of occurrence. No FSL report has been brought on record at the time of submission of charge-sheet and so it cannot be said for sure that the seized contraband was *ganja*. Learned counsel further submits that the seized quantity of *ganja* is above the small quantity but below the commercial quantity as notified by the Government orders. The petitioner is in custody since 30.04.2021 and charge-sheet has been submitted in this case.

Learned APP opposes the prayer for bail submitting that the petitioner was caught red-handed and recovery of 2kg 50 grams of *ganja* was made from his possession. Petitioner is having criminal antecedents.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the period of custody of the petitioner along with submission of



charge-sheet, 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 Additional Sessions Judge-Vth, Madhubani in connection with G.R. No. 11 of 2021 arising out of Deodha P.S. Case No. 44 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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 a close relative of the petitioner.
- (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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