

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.20857 of 2023**

Arising Out of PS. Case No.-75 Year-2021 Thana- SHERGHATI District- Gaya

Munna Singh, S/o Surendra Kumar Singh @ Surendra Singh, R/o Village-  
Masadh (Masarh), P.S.- Udwant Nagar, Distt.- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                          |   |                                                                          |
|--------------------------|---|--------------------------------------------------------------------------|
| For the Petitioner/s     | : | Mr. Krishna Prasad Singh, Sr. Advocate<br>Mr. Anil Kumar Singh, Advocate |
| For the Opposite Party/s | : | Mr. Shantanu Kumar, APP                                                  |

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

4      12-07-2023                      Heard Mr. Krishna Prasad Singh, learned senior  
counsel appearing on behalf of the petitioner and the learned  
APP for the State.

2. This is the second attempt made on behalf of the  
petitioner renewing his prayer for bail, who is in custody, in  
connection with NDPS Case no. 12 of 2021, arising out of  
Sherghati P.S. Case No. 75 of 2021, registered for the offences  
punishable under Sections 8/20(b)(ii)(c)25/29/59(2) of Narcotic  
Drugs and Psychotropic Substances Act (hereinafter referred to  
as ‘the NDPS Act’).

3. Earlier the prayer for bail of the petitioner was  
turned down vide order dated 17.10.2022 passed in Cr. Misc.  
No. 67419 of 2021 taking into consideration the materials  
available on record suggesting that on a tip-off secret  
information that the petitioner along with other accused persons



were coming from Orissa to Ara (Bhojpur) by escorting Pick-up van, in question, wherein a huge commercial quantity of Ganja, weighing 253 Kg was kept concealed in a cavity especially manufactured in the Pick-up Van and this petitioner was in regular touch with the driver of the said Pick-up van. The statements of the driver and Khalasi were recorded under Section 67 of the N.D.P.S. Act also suggest the involvement of all the accused persons, including the petitioner.

4. Be it noted that mandate of the law, in uncertain terms declare that the knowledge of possession of contraband has to be gleaned from the facts and circumstances of a case and the “possession” could mean physical possession, animus custody over the prohibited substance with animus exercise of dominion and control as a result of concealment, or personal knowledge as to the existence of the contraband and the intention based on such knowledge.

5. It is well settled that the finding of the absence or possession of contraband on the person of the accused person does not absolve it at the level of scrutiny required under Sections 37(1)(b)(c) of the N.D.P.S. Act.

6. Learned senior counsel vehemently submitted that the petitioner is in custody since 03.02.2021 and till date out of



nine prosecution witnesses, only one prosecution witness has been examined and there is no likelihood of conclusion of trial in near future. He further submits that the materials available on record are also not sufficient and there is remote chance of conviction of the petitioner and, as such, keeping him behind the bar would serve no further purpose, moreover, he has always been ready to co-operate in the trial.

7. On the other hand, learned counsel for the State vehemently opposes the bail application and submits that there is no overwhelming cogent circumstances requiring fresh consideration.

8. Regard being had to the submissions made on behalf of the parties and considering the huge quantity of recovery of contraband (Ganja) weighing 253 Kg and the materials suggesting the involvement of the petitioner, the prayer for grant of bail to the petitioner is hereby rejected.

9. Needless to say that if there would not be any substantive progress in the trial, he may renew his prayer for bail after completion of three years in the custody.

**(Harish Kumar, J)**

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