

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.47236 of 2023**

Arising Out of PS. Case No.-334 Year-2023 Thana- MOTIHARI MUFASIL District- East  
Champaran

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KUFRAN MIYA Son of Roza Miya @ Roj Mahmad Resident of village -  
Suraha, P.S. - Muffasil, Distt. - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Ajay Kumar Singh, Advocate  
For the Opposite Party/s : Mr.Kumar Veerendra Narayan, APP

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

2      07-08-2023                      Heard learned counsel appearing on behalf of the  
  
petitioner and learned counsel appearing on behalf of the State.

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

3. The petitioner seeks bail in connection with  
  
N.D.P.S. Case (Pre-trial) arising out of Motihari Muffasil P.S.  
  
Case No. 334 of 2023 registered for the offence under Sections  
  
8, 20(b)(ii)(B), 23 and 25 of the N.D.P.S. Act, 1985.

4. The accused/petitioner is named in the F.I.R. and is  
  
in custody since 01.05.2023.

5. The allegation against the petitioner is to have in  
  
possession of contraband i.e. *Ganja*, total of 18 Kg alleged to be  
  
recovered from the trunk of shop.



6. Learned counsel appearing on behalf of the petitioner submitted that the alleged recovery appears to be made from the shop, which is accessible by general public, and as such, it cannot be said that recovery as alleged was made from the conscious physical possession of this petitioner. It is further submitted that the compliance of Section 100(4) of the Cr.P.C. not appears to be followed in present case regarding search of premises. It is further submitted that recovered quantity i.e. *ganja* appears less than commercial quantity, and as such, rigorous implication of Section 37 of the NDPS Act not appears to be applicable in present case. While concluding the argument, it is submitted that petitioner found involved in two more criminal cases, not of similar nature, where he is on bail and moreover, investigation of this case is completed, for which charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

7. Learned APP, opposes the prayer of bail.

8. Considering the facts and circumstances as mentioned above and by taking note of fact as recovery of alleged contraband *prima facie* not appears to be made from the conscious physical possession of this petitioner, where recovered quantity is less than commercial quantity, coupled



with the fact that charge-sheet has already submitted, where petitioner is in custody since 01.05.2023, accordingly, petitioner above named, is directed to be released on bail in connection with N.D.P.S. Case (Pre-trial) arising out of Motihari Muffasil P.S. Case No. 334 of 2023 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/Special Judge, East Champaran, Motihari/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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