

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63102 of 2022**

Arising Out of PS. Case No.-399 Year-2022 Thana- BHORE District- Gopalganj

JAYRAM SHARMA Son of Nathuni Sharma R/V- Baniya Chhapar, P.S-
Bhorey, Dist- Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Harendra Prasad, Advocate

For the Opposite Party/s : Mr.Uday Chand Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

3 10-01-2023 At the outset, the learned counsel for the petitioner submits that on account of inadvertence, the quantity of ganja and smack recovered from the petitioner, has been wrongly mentioned in paragraph no. 4 of the present petition, which, in fact, should have been as follows :-

‘Ganja-3.5 grams and Smack-6.680 grams.’

Heard the learned counsel for the petitioner and
the learned APP for the State.

The petitioner seeks regular bail in connection
with Bhore PS case no. 399 of 2022 instituted for the offences
punishable under Sections 8(C), 21(b), 8, 20(B)(ii)(A) of
N.D.P.S. Act.

The case of the prosecution in brief is that the
informant along with his police force had conducted a raid at the



shop of the petitioner and recovered 3.5 grams of ganja as also 6.680 grams of smack from various places.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case, he is having a clean antecedent and is languishing in custody since 19.08.2022. The learned counsel for the petitioner has further submitted that the mandatory provision contained under Section 100 Cr.P.C. has not been followed in preparing the seizure list, hence, the entire seizure is vitiated in the eyes of law. It is also submitted that the quantity of ganja recovered from the shop of the petitioner is much less than the small quantity defined in the Schedule notified under the provisions of the N.D.P.S. Act, 1985 and as far as the quantity of smack is concerned, the same is little more than the small quantity, however, the same is much less than the commercial quantity defined in the Schedule notified under the provisions of N.D.P.S. Act, hence, there is no impediment in grant of bail to the petitioner herein.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel



for the parties, taking into account the materials available on record and considering the accusation levelled against the petitioner apart from the fact that there is no compliance of Section 100 Cr.P.C. while preparing the seizure list as also the fact that the petitioner is having a clean antecedent, I deem it fit and appropriate to enlarge the petitioner on bail.

Accordingly, the abovenamed petitioner is directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge, Gopalganj in connection with Bhore PS case no. 399 of 2022.

(Mohit Kumar Shah, J)

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