

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73389 of 2022**

Arising Out of PS. Case No.-352 Year-2022 Thana- GAIGHAT District- Muzaffarpur

Amol Kumar S/O Achhe Lal Ray Resident of village- Maithi (Majithi), P.S.-
Gayghat, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union Of India Through NCB, Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 20-03-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The petitioner seeks bail in connection with Gayghat
P.S. Case No.352 of 2022 registered for the offence under
Sections 399, 402 and 414 of the Indian Penal Code, Sections
25(1-b)a, 26 and 35 of the Arms Act and Sections 8, 20 and 22
of the Narcotics Drugs and Psychotropic Substances Act.

The accused/petitioner is named in the F.I.R. and is in
custody since 24.07.2022.

The allegation against the petitioner is to involve in
preparation for dacoity alongwith other co-accused persons and
while preparing so found in possession of 1.507 kilograms of



contraband i.e. *ganja*.

Learned counsel appearing on behalf of the petitioner submitted that the allegation is appearing false on its face as accused persons alleged to be found in preparations, their number appears four as less than mandatory requirement of the number for alleged offence which is five. It is also submitted that mere on the basis of possession of contraband i.e., *ganja* it cannot be said that petitioner found involved in preparation for dacoity. It is submitted that no incriminating material alleged to be recovered/surfaced during the course of investigation, which may suggest that petitioner was involved in preparation for dacoity. It is submitted that compliance of Section 50 of the N.D.P.S. Act regarding search upon person also not appears to be complied in the present case. It is also submitted that compliance of Section 37 of the N.D.P.S. Act also not appears to be made in the present case for the reason that recovered contraband is less than the commercial quantity. While concluding the argument, it is submitted that petitioner is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.



Learned APP appearing on behalf of the State,
opposes the prayer for bail.

In view of the facts and circumstances as mentioned
above as recovered contraband i.e., *ganja* is less than the
commercial quantity, where compliance of Section 50 N.D.P.S.
Act appears doubtful on its face, where petitioner is a man of
clean antecedent coupled with the fact that charge-sheet has
already been submitted, let above named petitioner is directed to
be released on bail in connection with Gayghat P.S. Case
No.352 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees
Ten Thousand) with two sureties of the like amount each to the
satisfaction of Additional Sessions Judge- IIIrd,
Muzaffarpur/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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