

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21535 of 2025

Arising Out of PS. Case No.-14 Year-2022 Thana- GALGALIYA District- Kishanganj

Asraful Hussain Son of Sirajul Miya Resident of Ghughumari, P.s.- Kotwali,
Distt.- Cooch Behar @ Cooch Bihar (West Bengal)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Adv. Mr. Dhananjaya Nath Tiwari, Adv. Mr. Kumar Rajdeep, Adv.
For the Opposite Party/s	:	Mrs. Diksha Kumari, Adv.

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

6 21-08-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
Galgaliya P.S. case No. 14 of 2022 (Special Case No. 02 of
2022) instituted for the offences under Sections 8/20(b)(ii)
(c) of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
more than 156 Kg. of *Ganja* from the vehicle which was
covered with vegetables.

4. Learned counsel for the petitioner submitted that
the petitioner has falsely been implicated in the present case.



Charge-sheet has been submitted in this case. The petitioner is the driver of the alleged Bolero pick-up van. The petitioner has no concern with the alleged Ganja. He further submits that the petitioner at no point of time was found carrying any incriminating article much less Ganja. The petitioner, being driver, was not aware that Ganja like substance was kept beneath the vegetables. Nothing incriminating has been recovered from the conscious possession of the petitioner. Petitioner is in custody since 24.02.2022 and has one criminal antecedent in which he is on bail. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel for the petitioner further submits that though the seized contraband is above the commercial quantity but, the petitioner has remained in judicial custody since 24.02.2022. Charge has been framed in the month of September, 2022 and out of total 9 witnesses, six witnesses have been examined. In this regard, learned counsel for the petitioner has placed reliance on the judgment of Hon'ble Apex Court passed in the case of ***Rabi Prakash Vs. The State of Odisha*** reported in ***2023 LiveLaw (SC) 533***. Learned



counsel for the petitioner has also placed reliance on the order dated 29.04.2023 passed by a Co-ordinate Bench of this Court in Cr. Misc. No. 9036 of 2023.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP submits that the recovered contraband is above the commercial quantity and, hence, there is bar under Section 37 of the N.D.P.S. Act.

6. In compliance to the order of this Court dated 30.07.2025, the learned court below has sent report dated 04.08.2025 regarding present stage of trial.

7. The report of the learned District and Additional Sessions Judge, 1st, Kishanganj dated 04.08.2025 indicates that the charge has been framed on 21.09.2022 and the case is fixed on 07.08.2025 at stage of evidence of prosecution. It is further stated that six witnesses out of nine have been examined till date.

8. Having heard learned counsel for the parties and considering the entire facts and circumstances of the case as well taking into account the prolonged incarceration of the



petitioner, this Court is inclined to grant bail to the petitioner.

9. Let the petitioner be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Galgaliya P.S. case No. 14 of 2022 (Special Case No. 02 of 2022), subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the petitioner tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.



(iv) If the petitioner is found indulged in any criminal activity or commission of any crime after being released on bail, the prosecution will be at liberty to file an appropriate application before the court below for cancellation of his bail.

(v) The petitioner will not leave the territorial jurisdiction of the learned court below without prior permission for the same.

(Rudra Prakash Mishra, J)

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