

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51482 of 2025

Arising Out of PS. Case No.-5 Year-2012 Thana- GOVERNMENT OFFICIAL COMP.
District- Nawada

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Mithilesh Singh S/o Late Kapil Singh R/o Village- Khanwan, P.S.- Narhat,
District- Nawadah

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate

For the Opposite Party/s : Mr.Anant Kumar I, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 11-08-2025 Learned counsel for the petitioner seeks permission to
make necessary correction in paragraph no.4 of the petition.

2. He is permitted to make necessary correction in
course of the day.

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

4. In the present case, the petitioner seeks bail in
connection with Excise (NDPS) Case No. 269 of 2012
corresponding to Special Case No. 05 of 2012 registered for the
offences under Section 20(b) of the N.D.P.S. Act.

5. As per prosecution case, on the basis of secret
information, a raid was conducted on the land of the petitioner
who was found cultivating ganja plants having 5 to 6 feet height
and 20 in numbers. The plants were cut and their weight was taken



and total weight of those plants came to be 200 kg. The petitioner is stated to have absconded when the raid was being conducted.

6. Learned counsel appearing on behalf of the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. The raid was conducted in the *khand* of the petitioner which is an open space and part of joint family property. So no recovery has been made from the conscious possession of the petitioner. Moreover, as per definition of ganja mentioned in Section 2(iii)(b) of the NDPS Act, it is only the flowering or fruiting tops of the cannabis plants excluding the seeds and leaves. But in the present case the plants were weighed showing is to be weight of 200 kg. The same is not equal to recovery of 200 kg of ganja. Learned counsel further submits that the mandatory provision of Sections 42 and 50 of the NDPS Act have not followed and the plants were cut, seized and weighed in an arbitrary manner showing recovery of 200 kg of ganja without any substance. The petitioner was not even having knowledge about the raid and search and seizure being shown against his interest. The petitioner was never served with any summon, warrant or any other process. The petitioner is aged about 90 years and when the police conducted the raid in his house, he voluntarily surrendered before the learned trial court. Learned counsel



further submits that under the aforesaid facts and circumstances no offence under Section 20(b) of the NDPS Act is made out against the petitioner. Charge-sheet has been submitted and no further interrogation of petitioner is required. Petitioner is in custody since 27.05.2025 and is having clean antecedent.

7. Learned A.P.P. opposes the submission made on behalf of the petitioner. Learned APP submits that petitioner was found cultivating cannabis plants and the said offence has been made punishable under Section 20 of the NDPS Act.

8. Having regard to the facts and circumstances and submissions made on behalf of the parties and further considering the fact that recovery is of green plants of cannabis (*Ganja*) and doubtful nature of allegation under Section 20(b) of the NDPS Act against the petitioner and his age, the petitioner above named is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I, Nawada/concerned court in connection with Excise (NDPS) Case No. 05 of 2012, subject to the conditions mentioned in Section 480(3) of the B.N.S.S. and other following conditions:

- (i) One of the bailors will be a close relative of the petitioner.



(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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