

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 30783 of 2026

Arising Out of PS. Case No.-29 Year-2026 Thana- MAHISHI District- Saharsa

Chhotu Khirhar @ Chhotu Kumar, Son of Late Ramchandra Khirhar,
Resident of village - Mahpura, P.S.- Mahishi, District - Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mrs. Rashmi Jha, Advocate

For the Opposite Party/s : Mr. Akbar Ali, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 24-07-2026 Heard learned counsel for the petitioner and

learned Additional Public Prosecutor for the State.

2. The accused/petitioner is named in the FIR and apprehending his arrest in connection with Mahishi P.S. Case No.29 of 2026 registered under Sections 8 and 20(b)(ii)(B) of the N.D.P.S. Act.

3. As per FIR, from four different shops i.e., from the shop of co-accused persons, namely, Rango Yadav, Ranvir Yadav, Rajan Khirhar and Andu Yadav, 1.228 kg, 2.400 kg, 228 g and 6.129 kg of *ganja* were recovered respectively, kept in black polythene, total of 9 kg 985



grams.

4. It is submitted by Mrs. Rashmi Jha, learned counsel appearing for the petitioner that upon police raid, co-accused persons namely, Rango Yadav, Ranvir Yadav, Rajan Khirhar and Andu Yadav were apprehended with contraband, where the recovery of *ganja* from the co-accused, namely, Rango Yadav and Rajan Khirhar appears less than smaller quantity, making the offence bailable, whereas from the co-accused namely, Ranvir Yadav and Andu Yadav it is the recovery of intermediate quantity, where the rigors of Section 37 of the NDPS Act is not appears applicable.

5. Arguing further, it is submitted that all these four co-accused persons upon arrest named this petitioner for the reason that petitioner was working in the next shop of locality with whom they were in inimical terms. It is further submitted that save and except suspicion nothing appears against this petitioner. It is also submitted that mere on the basis of aforesaid confessional statement/disclosure, it cannot be said that petitioner was under culpable mental state *qua* possession of contraband in view of Section 35 of



the NDPS Act, what seized from apprehended co-accused persons. Explaining criminal antecedent, it is pointed out that petitioner found involved in two more criminal cases but are of different in nature, not related with NDPS Act, where he is on bail.

6. Learned APP opposes the prayer of bail.

7. In view of aforesaid factual submissions and by taking note of fact as except suspicion arising out of disclosure/confessional statement of apprehended co-accused persons in police custody, coupled with the fact nothing surfaced except disclosure as to suggest that petitioner was *prima facie* under culpable mental state *qua* possession of contraband i.e., *ganja* which seized from apprehended co-accused persons, accordingly, the petitioner above-named, is directed to be released on bail, in the event of his arrest or surrender in the court below within a period of four weeks, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Principal District & Sessions Judge-cum- Special Judge, Saharsa in connection



with Mahishi P.S. Case No.29 of 2026, subject to the conditions as laid down under Section 438(2) of the CrPC/under Section 482(2) of the BNSS.

(Chandra Shekhar Jha, J.)

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