

GAHC010061412024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./885/2024

RANJAN KUMAR
S/O- SIPAHI RAY, R/O- RAMPUR SHAM CHAND, P.O. RAMPUR, P.S.
RAGHOPUR, VAISHALI, DIST. VAISHALI, BIHAR, PIN- 844508.

VERSUS

UNION OF INDIA
REPRESENTED BY THE STANDING COUNSEL NARCOTICS CONTROL
BUREAU, GUWAHATI ZONAL UNIT, GUWAHATI.

Advocate for the Petitioner : MR. A DUTTA

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

Date : 24.07.2024

Heard Mr. A.Dutta, learned counsel appearing for the accused petitioner as well as Ms. M.Deka, learned counsel for the NCB.

2. By filing this petition under Section 439 Cr.P.C., the accused-petitioner, namely, **Ranjan Kumar** has prayed for grant of bail in connection with **NDPS Case No.20/2023** under Sections 20(b) (ii) (C)/29 of the NDPS Act (NCB

Crime No.23/2023).

3. The brief facts of the case is that on 29.11.2022 on receipt of a secret information by NCB official that large quantity of ganja was carrying in a truck bearing No. NL01-AB-4248 through Madhanpur Toll plaza , Kamrup, Assam and moving towards Rangia, the said truck was intercepted by the NCB team. One person was found inside the truck who introduced himself as Ganesh Kumar as driver of the truck. On being searched, 195.710 Kgs of suspected ganja was recovered from the secret chamber of the said truck. Accordingly, the driver was apprehended and the contraband was seized.

4. The learned counsel for the petitioner has submitted that the present petitioner was arrested on 30.11.2022. The contraband item i.e. Ganja was neither recovered from the physical possession of the petitioner nor seized ganja belonged to him but it was recovered from the driver of the truck i.e. co-accused Ganesh Kumar. The NCB has failed to bring any material evidence against the petitioner to prove his conscious possession.

5. The learned counsel for the petitioner has pointed out that the petitioner was not present on the spot on the day of seizure of contraband goods nor knowing the fact that the said contraband item were transported by the said truck. The petitioner in his statement to the NCB has categorically stated that he was not aware of the transportation of ganja in the said truck.

6. According to the learned counsel for the petitioner, the petitioner has been languishing in judicial custody for last one and half years. Only three witnesses were examined out of 16 witnesses within such period. There is no scope of early disposal of trial. A speedy trial is also one of the dimensions of the

fundamental right to life under Article 21 of the Constitution of India.

Considering the length of detention, the petitioner herein may be enlarged on bail.

7. The learned counsel for the petitioner has referred the following case laws:

- 1. Md. Muslim –vs State (NCT of Delhi) reported in AIR 2023 SC 164.*
- 2. Raghuvir Singh vs- State of Bihar reported in (1986) 4 SCC 481*
- 3. Tofan Singh vs- State of Tamilnadu reported in (2021) 4 SCC 1.*

8. In response, learned Standing Counsel for the NCB has submitted that the present petitioner along with other co-accused were involved in trafficking of the alleged commercial quantity of ganja. It is true that at the time of interception of the truck only co-accused Ganesh Kumar was present in the said truck. However, during investigation, it has come to the knowledge of NCB team that the petitioner along with other co-accused Rajib Roy were staying in a line hotel in Guwahati for transporting the said ganja. Immediately, on receipt of the information, the NCB team visited line hotel of Guwahati and apprehended the present petitioner and other co-accused Rajib Roy. According to the learned counsel, NCB , as the recovered contraband was ganja which is more than the commercial quantity, so there is embargo under Section 37 of the NDPS Act and opposed in granting bail to the petitioner.

9. The grant of bail in NDPS Cases where the recovery of commercial quantity is alleged, is circumscribed under NDPS Act, 1985, Section 37 which

says that before grant of bail the court must have reason to believe that the petitioner has not committed the offence and in the event of release, he would not commit similar offence.

10. The issue was considered by the Honb'le Supreme court in the case of *State of Kerala & ors vs-Rajesh* , reported in (2020) 12 SCC 122 as well as in the case *Narcotic control Bureau vs- Mohit Agarwal* , reported in (AIR) 2022 SC 3444 and *Union of India vs- Ajay Kumar Singh @ Pappu* , reported in (2023) SCC Online SC 3456.

11. It reveals from the case record that the petitioner along with co-accused were found in a line hotel as disclosed by co-accused Ganesh Kumar and they were following the alleged truck from a safe distance in a maruti vehicle bearing no. BR01-DE-0636. It also appears that the petitioner and two other persons are owners of the seized ganja. The recovery of huge quantity of ganja would not justify that the petitioner had no knowledge of the narcotic drugs in the alleged truck nor there is any material to substantiate that the petitioner would not commit such offence in the event of his release.

12. Hence, I am not inclined to enlarge the petitioner on bail and as such, the bail prayer is rejected.

13. However, as it appears from the trial court record that out of 16 witnesses only 3 witnesses were examined, learned trial court is directed to take much more initiative to dispose of the matter within a period of six months.

This disposes of the bail application.

JUDGE

Comparing Assistant