

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29634 of 2020

Arising Out of PS. Case No.-167 Year-2018 Thana- HAZIPUR INDUSTRIAL District-
Vaishali

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SUMEET KUMAR @ JAMURA S/o Ashok Kumar Resident of Village-
Kuari Buzurg, P.S.-Ganga Bridge, District-Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar, Advocate
For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 22-01-2021 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is languishing in custody for the offences punishable under Sections 399/402/414/34 of the Indian Penal Code, Sections 25(1-b)a/26/35 of the Arms Act and Sections 8/20(b)(ii)(c)/22 of the N.D.P.S. Act in connection with Industrial Area P.S. Case No. 167 of 2018.

According to FIR, some persons including the petitioner were apprehended by the police on suspicion that they were preparing to commit dacoity. From possession of the petitioner, a loaded fire-arm and four kilograms of Ganja was recovered whereas from possession of some others also fire-arms and Ganja was recovered.



Learned counsel for the petitioner submits that the petitioner is in custody since 19.08.2018. The petitioner is ready to cooperate with the trial. Some other co-accused have been allowed bail by different coordinate Benches of this Court vide order at Annexure-2 series.

Consideration of prayer for bail to an accused having been found in possession of commercial quantity of Narcotics shall be subject to the conditions mentioned in Section 37 of the N.D.P.S. Act which provides that the Court must be satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence, and that he is not likely to commit any offence while on bail. In this case recovery of Ganja is alleged from possession of different persons named as accused including the petitioner. The recovered quantity is commercial quantity. Hence, nothing is there before the Court to form a reasonable ground for believing that the petitioner is guilty of the offences alleged nor there is any material to substantiate that in the event of release the petitioner would not commit such offence.

This issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and others V. Rajesh and Others** reported in **(2020) 12 Supreme Court Cases 122** and



the Hon'ble Supreme Court in paragraph 18 observed as follows:

“The jurisdiction of the Court to grant bail is circumscribed by the provisions of Section 37 of the NDPS Act. It can be granted in case there are reasonable grounds for believing that the accused is not guilty of such offence, and that he is not likely to commit any offence while on bail. It is the mandate of the legislature which is required to be followed.”

The aforesaid case was not brought to the notice of the Bench, which has considered prayer for bail of other accused or the case of those accused was distinguishable because the petitioner is accused in several cases of robbery.

Hence, I am not inclined to enlarge the petitioner on bail. Hence, the prayer for bail is refused. The trial Court is directed to expedite the trial.

(Birendra Kumar, J)

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