

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7694 of 2022

Arising Out of PS. Case No.-14 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

=====

UMESH PRASAD SINGH @ UMESH PAL SINGH S/O CHARAN SINGH
R/o village- Mahatiya Dandi Aonla, P.S.- Bisharatganj, District- Bareilly U.P.

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH NCB, PATNA Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Mishra

For the Opposite Party/s : Mr.Manoj Kumar Singh (C.G.C.)

=====

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

7 14-12-2022 Let the defect(s), as pointed out by the office, be

removed within a period of four weeks from today.

Heard learned counsel for the petitioner and

learned A.P.P. for the State.

The petitioner seeks bail in connection with N.C.B.

Case No.14 of 2020 arising out of N.D.P.S. Case No. 43 of 2020

registered for the offences punishable under Sections

8(C)/18/25/29 of the N.D.P.S. Act.

As per prosecution case, there is alleged recovery

of 15 KG opium from Innova car and Hundai Car in question.

The petitioner namely Umesh Prasad alongwith other co-

accused is apprehended from Innova Car in question and two

other co-accused persons were apprehended from Hundai Car in



question.

Learned counsel for the petitioner submits that petitioner is in custody since 03.11.2020. Petitioner bears no criminal antecedent. Learned counsel further submits that it is alleged that 5 Kg opium is recovered from Innova car in question and 10 Kg opium is recovered from Hundai car in question but as per allegation of prosecution out of 16 packets only 6 packets were seized from Innova car in question and all the 16 packets were mixed and marked as P-1 to P-16 and prosecution failed to clarify that out of 16 packets which packets were recovered from Innova Car in question and it is also not ascertain that packets markds as P-1 to P-6 or P-11 to P-16 or any other like packets P-7, P-8, P-9 or P-10 were the packets seized from Innova car in question.

The learned C.G.C. on behalf of Union of India vehemently opposes the prayer for bail. He further submits that 15 KG opium were allegedly recovered from two vehicles during the course of same transaction as per written report of the informant which is more than commercial quantity. Petitioner was apprehended on spot, on the said ground the petitioner does not deserve bail.

As per Narcotic Drugs and Psychotropic Substances Act, 1985 commercial quantity of opium is 2.5 KG



and the small quantity of opium is 25gm but the recovery in the present case is of 15 KG opium which is more than commercial quantity.

The grant of bail in NDPS cases where the recovery of commercial quantity of Narcotic is circumscribed under Section 37 of Narcotic Drugs and Psychotropic Substances Act, 1985, which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit similar offence.

The issue was considered by the Hon'ble Supreme Court in the case of *State of Kerala and Ors. Vs. Rajesh and Ors.*, reported in *2020(12) SCC 122*.

The FSL report dated 04.12.2020 also confirms that the substance is opium. The recovery of commercial quantity of opium as alleged in the story of prosecution would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Considering the facts and circumstances of the case, nature of allegation levelled against the petitioner coupled with FSL report and also taking into consideration the materials



available on record, I am not inclined to grant bail to the present petitioner. Accordingly, prayer for bail of the present petitioner stands rejected.

However, learned trial court is directed to expedite the trial and conclude the same preferably within nine months from the date of receipt of this order.

(Alok Kumar Pandey, J)

amitkr/-

U		T	
---	--	---	--

