

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23326 of 2021

Arising Out of PS. Case No.-28 Year-2020 Thana- BAUNSI District- Banka

REETESH KUMAR Son of Budhu Das @ Buddu Dass Resident of Village -
Fudkichak, P.s.- Gogri, Distt.- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Adv .

For the Opposite Party/s : Mr. A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 24-01-2022 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with Baunsi
P.S. Case No. 28 of 2020 corresponding to Special Case No.
02 of 2020 registered for the offence under Sections 20(b)
(II)(C)/22/23 of the of the Narcotics Drugs and Psychotropic
Substance Act.

Recovery is of 120.06 Kg. Of Ganja.

Learned counsel for the petitioner submits that the
petitioner is innocent and has not committed any offence. In
fact, according to the F.I.R., 120.6 Kg. Ganja is said to have
been recovered from the system box of the vehicle on which
the petitioner and the co-accused, Rahul Kumar, are said to



have been sitting at the time of their arrest. He further submits that neither the petitioner being the driver of the alleged vehicle nor he happens to be owner of the said vehicle rather the petitioner happens to be a *bonafide* passenger of the said vehicle and he has no concern with the alleged recovery of Ganja. Nothing has been recovered from the possession of the petitioner. The police has also submitted charge sheet in the case against the petitioner and others. He further submits that the petitioner, who is of no fault, is rotting in judicial custody since 02.02.2020.

Learned A.P.P. for the State has, vehemently, opposed the prayer for bail of this petitioner and submits that a huge quantity to the extent of 120.6 Kg. of Ganja falling within the purview of commercial quantity has been recovered from the vehicle on which the petitioner and his associates were sitting. He also submits that since the recovered quantity comes under the purview of commercial quantity, the petitioner seems to be engaged in illegal activity of dealing with narcotic substances like Ganja. He also submits that the petitioner carries five more cases other than the present one. Hence, he does not deserve to be enlarged on bail.



Since the quantum of recovery of Ganja in this case falls within the purview of commercial quantity, this Court intends to refer Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, which clearly depicts that the grant of bail in N.D.P.S. cases, where the recovery of commercial quantity of narcotic is alleged, is circumscribed. Section 37 says that for granting bail, the Court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences for which he has been charged, and further he is not likely to commit any offence while on bail.

This issue has also been considered by the Hon'ble Supreme Court in the case of ***State of Kerala and Ors. Vs. Rajesh & Ors.*** reported in ***2020 (12) SCC 122***.

In view of the aforesaid reference and the facts of the case, this court is of the view that the recovery of huge quantity of Ganja confirming the same by the F.S.L. report would not justify that the petitioner had no knowledge of narcotic kept in the vehicle or he was not involved in commission of such offence and also there is no material available to substantiate that the petitioner would not commit such offence in the event of release. Therefore,



considering the quantum of recovery of Ganja as well as the mandate of Section 37, this Court is not inclined to enlarge the petitioner on bail at this stage. Accordingly, the prayer for grant of bail to the petitioner is rejected. However, the learned trial court is directed to expedite the trial and make all possible effort to conclude it.

(Rajesh Kumar Verma, J)

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