

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25928 of 2021

Arising Out of PS. Case No.-222 Year-2020 Thana- DURGAWATI District- Kaimur (Bhabua)

Dukhanti Sah @ Rampati Gupta Son Of Late Guput Sah R/O Ward No. 2,
P.S.- Bhabhua, Dist.- Kaimur At Bhabhua.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kishore Prasad

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 25-01-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State in Virtual Court
proceeding.

Let the defects, as pointed out by the office, be
removed within four weeks of start of normal functioning of the
physical court.

Petitioner seeks bail in connection with Durgawati P.S.
Case No. 222 of 2020 registered for the offences punishable
under Sections 8, 20(b)(ii)(c), 22, 27(A) of NDPS Act.

According to prosecution case, while the police party
was on petrolling duty apprehended one Umesh Kumar with a
motorcycle from which 5 kg. Ganja was recovered, who
disclosed the name of one Babloo Sah to whom he was going to
deliver the recovered Ganja. He further disclosed that the



petitioner is also associate of said Babloo Sah who is accused in several other cases.

Learned counsel for the petitioner submits that petitioner is innocent and has committed no offence and he has falsely been implicated in the present case and nothing has been recovered from conscious possession of the petitioner where the recovery has been made from the co-accused from the house of the Malkin Devi @ Bhagwani Devi. He further submits that it appears from the F.I.R. 390 kg. Ganja was recovered. Petitioner is in custody since 18.09.2020.

The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner on the basis of para 34 and 108 of the case diary and submits that the petitioner carries three cases under NDPS Act.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances Act, 1985, Section 37 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*.

Learned counsel for the state has also informed that the bail application of Babloo Sah @ Sunil Sah has already been rejected vide order dated 16.09.2021 in Cr. Misc. No.13144 of 2021.

The recovery of huge quantity of Ganja from the possession of the petitioner 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 aforesaid facts and circumstances, I am not inclined to grant the privilege of bail to the petitioner in connection with Durgawati P.S. Case No. 222/2020 pending in the court of learned District and Sessions Judge-cum-Special Judge, Kaimur at Bhabua. Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

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