

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16684 of 2022

Arising Out of PS. Case No.-579 Year-2020 Thana- MUZAFFARPUR TOWN District-
Muzaffarpur

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RUPESH SHARMA Son of late Nagendra Thakur Resident of Village -
Pahsaul, P.S.- Katra, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Jha, Advocate
For the Opposite Party/s : Mr.Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 12-10-2022 Let the defects, as pointed out by the office, be

removed within four weeks of starting of Court proceeding in

physical mode in normal course.

Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the
offence under Sections 414/34 of the Indian Penal Code and
Sections 8/20/22 of the N.D.P.S Act.

As per the prosecution case, a raid was conducted
on the secret information at the house of Surendra Prasad
which was given on rent to Gaurav Kumar. Recovery of 166
gms Charas was made from the possession of Prabhash
Sharma and recovery of 750 gms and 760 gms along with Rs.



14 lakhs, ornaments and mobile phones were recovered from the room of Gaurav Kumar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. Further submits that it appears from the FIR as well as seizure list that 01 Kg 510 Gms of Charas has been recovered from the house of the petitioner. Petitioner is in custody since 21.09.2020.

Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is more than the commercial quantity so there is embargo under Section 37 of the NDPS Act for grant of bail to the petitioner. Further submits that the petitioner carries one more case other than the present one.

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 & Ors**, reported in **2020(12) SCC 122** as well as in the case of **Narcotic Control Bureau Vs. Mohit Aggarwal** reported in **AIR 2022 SC 3444**.

The recovery of huge quantity of Charas from possession of the petitioner would not justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Hence, I am not inclined to enlarge the petitioner on bail in connection with Muzaffarpur Town P.S. Case No.579 of 2020 pending in the court of learned Addl. Sessions Judge-I, Muzaffarpur.

Prayer is refused.

The learned Trial Court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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