

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17367 of 2022

Arising Out of PS. Case No.-270 Year-2021 Thana- BAJPATI District- Sitamarhi

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Asharfi Rai S/o Late Jangi Lal Rai R/o village- Mohanpur Ward No. 08, P.S.-
Raghopur, Distt.- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sabal Kumar Jha, Advocate

For the Opposite Party/s : Mr. Bhanu Pratap Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 31-08-2022 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 learned APP for the State.

Petitioner seeks bail in a case registered for the offences punishable under Section 414 of the Indian Penal Code and Section 8(C)/20(b)(ii) C/23 (C)/27(A)/29 of the N.D.P.S. Act.

Recovery is of 60.2 Kg of *Ganja*.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He further submits that the petitioner has no concern at all with the alleged recovery and nothing has been recovered from the



conscious possession of the petitioner. The petitioner is in custody since 09.09.2021.

Learned APP for the State has vehemently opposed the prayer for bail of the petitioner and submits that it appears from the F.I.R. as well as seizure list that total 60.2 Kg. of *Ganja* like substance was recovered. He further submits that there is recovery of huge amount of *ganja* i.e. 60.2 Kg. which comes under the category of commercial quantity.

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 in Cr. Appeal Nos. 1001-1002 of 2022** arising out of **Special Leave to Appeal (CRL.) No. 6128-29 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 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 Bajpatti P.S. Case No. 270 of 2021 pending in the Court of learned Special Judge, Sitamarhi.

Prayer is refused.

(Rajesh Kumar Verma, J)

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