

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35498 of 2021

Arising Out of PS. Case No.-585 Year-2020 Thana- BIDUPUR District- Vaishali

Abhishek Kumar Son of Amardeep Ram Resident of Village - Hasanpur, Asti,
P.S.- Mahua, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Singh Tarun
For the Opposite Party/s : Mr. Rajiv Nayan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 16-02-2022 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 Bidupur P.S.
Case No. 585 of 2020 registered for the offences punishable
under Sections 8, 20, 21, 22, 23 of the N.D.P.S. Act.

According to prosecution case, during vehicle
checking by the informant and other police personnel he
stopped two motorcycle on which four persons were sitting and
all the four persons were caught hold. On search of their body
500 grams Charas each from each accused and total 2 kg.



Charas has been recovered from their possession.

Learned counsel for the petitioner submits that petitioner has clean antecedent and has committed no offence and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that all together 2 kg. Charas has been recovered from the conscious possession of the co-accused persons. He further submits that there is non compliance of mandatory section of N.D.P.S. Act in the present case.

As per the notification issued under the NDPS Act, 1985, the small quantity of Charas is 100 gms. and commercial quantity of Charas has been defined as 1000 gms. and the recovery in the present case is of 2 kg. which is more than the 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 and Ors.*, reported in *2020(12) SCC 122*.

The F.S.L. report dated 28.12.2021 also confirms that the substance is Charas. The recovery of commercial quantity of Charas 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 Bidupur P.S. Case No. 585 of 2020 pending in the court of learned District and Sessions Judge-cum-Special Judge, Vaishali at Hajipur. Accordingly, the same stands rejected.

However, learned trial court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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