

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28714 of 2022

Arising Out of PS. Case No.-11 Year-2018 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

=====

Shanturam Biswas @ Shantu Ram Son Of Anil Biswas Resident Of Village-
Maghpula , Sheetalkuchi , P.S- And P.O- Kotwali , Dist- Cooch Behar (West
Bengal).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Narcotics Control Bureau, Patna through its Intelligence Officer, Union Of
India Patna Bihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Saket Anand, Advocate
For the Opposite Party/s	:	Mr. Tarun Prasad Mandal, Advocate
For the UOI	:	Mr. K.N. Singh, Addl.S.G.

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 31-08-2022 Heard learned counsel for the petitioner and learned
counsel for Union of India as well as learned Additional Public
Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within a period of four weeks from today.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 20(b)(ii)(c) and Section 29
of N.D.P.S. Act.

Recovery is of 137 kg. of Ganja.

Learned counsel for the petitioner submits that earlier
the bail application has been filed but the bail application of the



petitioner has been rejected vide order dated 25.06.2020 passed in Cr. Misc. No. 57786 of 2019.

Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the prosecution report that all together 137 kg. of Ganja has been recovered from the possession of the petitioner. He further submits that out of seven witnesses, two witnesses have been examined till date and there is no likelihood to conclude the trial in near future. He further submits that similarly situated, co-accused, namely, Suku Sarkar has been granted bail by a co-ordinate Bench of this Court vide order dated 06.07.2022 passed in Cr. Misc. No. 34149 of 2022.

The learned counsel for Union of India as well as learned Additional Public Prosecutor have vehemently opposed the prayer for bail of the petitioner and submits that due to COVID the trial is not concluded. Today, Joint Director of N.C.B. is present in the Court and he assure that the trial would be concluded within a period of six months.

As per Narcotic Drugs and Psychotropic Substances Act, 1985, commercial quantity of Ganja is 20 kg. and the small quantity of Ganja is 500 gms. but the recovery in the present case is of 137 kg. Ganja 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* 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 commercial 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 complaint Case No. NCB/PZU/V/11/2018; Special (NDPS) Case No. 15 of 2018 pending in the court of



learned Additional Sessions Judge-XVII-cum-Special Judge,
N.D.P.S. Act, Patna. Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

mdrashid/-

U		T	
---	--	---	--

