

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31279 of 2022**

Arising Out of PS. Case No.-26 Year-2022 Thana- SIKTA District- West Champaran

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DILIP SAH SON OF RAMESHWAR SAH @ RAMA SHANKAR SAH R/O
VILLAGE- BARAWACHAP, P.S.- CHANPATIYA, DISTRICT- WEST
CHAMPARAN

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Shrivastava

For the Opposite Party/s : Mr.Mukeshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 01-09-2022 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 20,22,23,24,27 of N.D.P.S. Act.

Recovery is of 13.800 Kg of Charas.

Learned counsel for the petitioner submits that the petitioner has clean antecedent. He has falsely been implicated in the present case. Further submits that it appears from the FIR as well as seizure list that altogether 13.800 Kg of Charas like substance was recovered from possession of the petitioner.



Further submits that in fact nothing has been recovered from possession of the petitioner rather the recovery has been made from possession of co-accused, namely, Kiran Devi and the police, after investigation submitted the chargesheet against the petitioner and the petitioner is in custody since 24.02.2022.

Learned counsel for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the recovered Smack is more than the commercial quantity so there is embargo of Section 37 of the N.D.P.S. 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 & 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 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 Sikta P.S.Case No.26 of 2022 pending in the court of learned Chief Judicial Magistrate, Bettiah, West Champaran.

Prayer is refused.

(Rajesh Kumar Verma, J)

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