

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41005 of 2022

Arising Out of PS. Case No.-15 Year-2018 Thana- BACHHHWARA District- Begusarai

SUKESH KUMAR S/o Sagar Singh R/o Village- Sherpur, P.S.- Maranchi,
District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mohit Shriwastava, Adv.

For the Opposite Party/s : Mr. Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 17-08-2022 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 8, 20(C) and 25 of the N.D.P.S. Act.

Recovery is of 11.26 quintals of Ganja.

Learned counsel for the petitioner submits that the
petitioner, who is of clean antecedent, is innocent and has not
committed any offence. In fact, according to the F.I.R., 11.26
quintals of Ganja are said to have been recovered from the truck
of which the petitioner is said to be the driver. He further submits
that nothing incriminating has been recovered from the
conscious possession of the petitioner and he has no concern
with the alleged recovery of ganja. He also submits that the
petitioner is not involved in illegal dealing of or any substance



like ganja. He further submits that the petitioner, who is of no fault, is rotting in judicial custody since 30.01.2018.

Learned A.P.P. for the State has, vehemently, opposed the prayer for bail of this petitioner and submits that a huge quantity to the extent of 11.26 quintal of Ganja falling within the purview of commercial quantity has been recovered from the truck driven by the petitioner. He also submits that since the recovered quantity comes under the purview of commercial quantity, the petitioner seems to be engaged in illegal dealing of Ganja or a narcotic substance like Ganja. Hence, the petitioner does not deserve to be enlarged on bail.

Since the quantum of recovery of Ganja in this case falls within the purview of commercial quantity, this Court intends to refer Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, which clearly depicts that the grant of bail in N.D.P.S. cases, where the recovery of commercial quantity of narcotic is alleged, is circumscribed. Section 37 says that for granting bail, the Court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences for which he has been charged, and further he is not likely to commit any offence while on bail.

This issue has also been considered by the Hon'ble Supreme Court in the case of ***State of Kerala and Ors. Vs. Rajesh***



& Ors. reported in **2020 (12) SCC 12** as well as in the case of **Narcotics Control Bureau Vs. Mohit Aggrawal** passed in Cr. Appeal Nos. 1001-1002 of 2022.

In view of the aforesaid reference and the facts of the case, this court is of the view that the recovery of huge quantity of 11.26 quintals of Ganja confirming the same by the F.S.L. report would not justify that the petitioner had no knowledge of its presence in the truck in question being driven by him or he was not involved in commission of such offence and also there is no material available to substantiate that the petitioner would not commit such offence in the event of release. Therefore, considering the quantum of recovery of Ganja as well as the mandate of Section 37, this Court is not inclined to enlarge the petitioner on bail at this stage. Accordingly, the prayer for grant of bail to the petitioner is rejected.

(Rajesh Kumar Verma, J)

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