

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52433 of 2021

Arising Out of PS. Case No.-60 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

Vijay Kumar Sahani @ Vinay Kumar Sahani Son Of Vishal Sahani R/O
Village- Madhuwan, Mathwal, Ward No.2, P.S.- Aktanga, District- Parsa
(Nepal).

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Saroj Kumar Sharma
For the Opposite Party/s : Ms. Nirmala Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 31-03-2022 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

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 a case registered for the offences punishable under Sections 414, 420, 467, 468, 471/34 of the Indian Penal Code and Section 20(b)II(c), 23, 25, 29 of N.D.P.S. Act.

Recovery is of 265.23 kg. of Charas from the vehicle in question.

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 F.I.R. that all together 265.23 kg. Charas recovered from the vehicle in question and petitioner was accompanied with co-accused namely Vicky Kumar Srivastava. The petitioner is in custody since 25.02.2021.

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 recovery is of 265.23 kg. of Charas 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 recovery of commercial quantity of Charas from the vehicle in question and the petitioner was accompanied with the driver and 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, I am not inclined to grant the privilege of bail to the petitioner in connection with Kuchaikote P.S. Case No. 60 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Gopalganj.

Prayer is refused.

(Rajesh Kumar Verma, J)

mdrashid/-

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

