

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54207 of 2021

Arising Out of PS. Case No.-168 Year-2021 Thana- GAIGHAT District- Muzaffarpur

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Sunil Kumar @ Sunil Ray Son Of Ram Gayani Yadav Resident Of Village-
Bharat Nagar, P.S.- Gaighat, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur

For the Opposite Party/s : Mr.Choubey Jawahar

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 17-05-2022 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 8, 20, and 22 of the N.D.P.S. Act.

Recovery is of total 35 kg. of Ganja from the possession of the petitioner.

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 nothing has been recovered from the



conscious possession of the petitioner, rather the recovery has been made from the house of the petitioner. The petitioner is in custody since 29.04.2021.

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 35 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**.

The F.S.L. report dated 22.01.2022 also confirms that the recovered substance is Ganja. 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 N.D.P.S. Case No.40 of 2021 arising out of Gaighat P.S. Case No. 168 of 2021 pending in the court of learned Special Judge (N.D.P.S.)-cum-8th Additional Sessions Judge, Muzaffarpur. Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

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