

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59468 of 2021

Arising Out of PS. Case No.-287 Year-2020 Thana- MASAUDHI District- Patna

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Jitendra Kumar @ Mukhiya S/O Umesh Prasad R/O Village-Rewa, P.S-
Masaurhi, District-Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rahul Rathour, Advocate

For the Opposite Party/s : Mr. Raj Kishore Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 09-05-2022 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 learned
APP for the State.

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

As per prosecution case, in brief, it is alleged that
there is recovery of 60.153 Kg. of Ganja from 12 bundles which
were kept over two motorcycles, the petitioner along with other
co-accused persons were involved in transporting the said
Ganja.

Learned counsel for the petitioner submits that the



petitioner has clean antecedents and he been falsely implicated in the present case. He further submits that it appears from the F.I.R. altogether 60.153 Kg. of ganja has been recovered from the conscious possession of the petitioner and other co-accused persons. He further submits that Section 15 of the NDPS Act has not been followed in the present case.

Learned APP for the State has vehemently opposed the prayer for bail of the petitioner and submits that FSL report confirms that the recovered article is *ganja*. He further submits that there is recovery of huge amount of *ganja* i.e. 60.153 Kg. which comes under the category of 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 & Ors.*, reported in 2020 (12) SCC 122.

The recovery of huge quantity of *ganja* from the



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 Special Case No. 146 of 2020 arising out of Dhanarua P.S. Case No. 287 of 2020 pending in the Court of learned Additional Sessions Judge-XVI, Patna.

Prayer is refused.

(Rajesh Kumar Verma, J)

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