

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61257 of 2021

Arising Out of PS. Case No.-3 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- East Champaran

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RAJAN KUMAR SINGH S/o LATE ARUN SINGH R/o VILLAGE-
CHHAPARA PURBI DAHIYAWAN R. ALI ROAD, P.S- CHHAPRA
TOWN, DISTRICT- CHHAPRA (SARAN).

... .. Petitioner/s

Versus

THE UNION OF INDIA THROUGH NARCOTICS CONTROL BUREAU,
PATNA. PATNA.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Krishna Pd. Singh, Sr. Adv. Mr. Bhaskar Shankar, Adv.
For the Opposite Party/s	:	Mr. Ramakant Sharma, Sr. CGC Mr. Kumar Sachin, CGC

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 20-04-2022 Heard learned counsel for the petitioner and the

learned counsel for the Union of India.

The petitioner seeks bail in connection with ND.PS
Case No. 11 of 2020 registered for the offence under
Sections 20(b)(ii)(c) of the NDPS Act.

Recovery is of 50 Kgs. of Charas from the Scorpio
Vehicle being driven by the petitioner.

Learned counsel for the petitioner submits that the
petitioner, who is of clean antecedent, is innocent and has
not committed any offence. He further submits that in fact,
according to the F.I.R., 50 Kgs. of Charas is said to have been
recovered from the Scorpio Vehicle 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 Charas. He also submits that the petitioner had no knowledge that the alleged Charas is kept in the vehicle in question and he is not involved in illegal dealing of Charas. He further submits that the petitioner, who is of no fault, is rotting in judicial custody since 19.02.2020.

Learned counsel for the UOI has, vehemently, opposed the prayer for bail of this petitioner and submits that a huge quantity to the extent of 50 Kgs. of Charas falling within the purview of commercial quantity has been recovered from vehicle in question and the vehicle was 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 dealing with the contraband substance like charas. Hence, the petitioner does not deserve to be enlarged on bail.

Since the quantum of recovery of Charas in this case falls within the purview of commercial quantity, which is defined as 1 Kg., 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 122***.

In view of the aforesaid reference and the facts of the case, this court is of the view that the recovery of more than commercial quantity of Charas from the vehicle in question of which the petitioner was the driver, confirming the same by the F.S.L. report, which is at Flag -'R', would not justify that the petitioner had no knowledge of Charas kept in the vehicle in question 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 Charas 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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