

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7195 of 2023

Arising Out of PS. Case No.-864 Year-2021 Thana- BARACHATTI District- Gaya

PAWAN KUMAR Son of Swaminath Prasad Resident at Laxmi Nagar, Piska
More, P.S.- Pandara, District- Ranchi (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal, Advocate

For the Opposite Party/s : Mr.Ram Sumiran Rai, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 07-08-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seek bail, who is in custody since
30.12.2021 in connection with Barachatti (Mohanpur) P.S. Case
No. 864 of 2021(Special (NDPS Act) Case No.92 of 2021),
F.I.R. dated 29.12.2021 registered for the offence punishable
under Section 414 of IPC and Sections 20/22 of N.D.P.S. Act.

3. Recovery is of 126.870 Kg of Ganja.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he have falsely been
implicated in the present case. Further submits that from bare
perusal of the FIR that altogether 126.870 Kg of Ganja was
recovered and there is non-compliance of Sections 42, 50 and
52 of the N.D.P.S.Act and without F.S.L. report, the police has



filed the chargesheet against the petitioner.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is more than six times of the commercial quantity and the F.S.L. report also confirms that the recovered contraband is Ganja so there is embargo under Section 37 of the NDPS Act to enlarge the petitioner on bail.

6. 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 the petitioner has not committed the offence and in the event of release he would not commit similar offence.

7. 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** as well as in the case of **Narcotic Control Bureau Vs. Mohit Aggarwal** reported in **AIR 2022 SC 3444** and recently decided the judgment in the case of **Union of India Vs. Ajay Kumar Singh @ Pappu**, reported in **2023 SCC OnLine SC 346**.

8. The recovery of huge quantity of Ganja from



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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with Barachatti (Mohanpur) P.S. Case No. 864 of 2021(Special (NDPS Act) Case No.92 of 2021) pending in the court of learned Additional Sessions Judge-III-cum-Special Judge, (N.D.P.S.Act), Gaya.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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