

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6095 of 2023

Arising Out of PS. Case No.-267 Year-2022 Thana- KHAIRA District- Saran

SHAILESH KUMAR BHAGAT @ SHAILESH KUMAR S/o Shivajee
Bhagat R/o Bhikhampur, P.S.- Khaira, Distt- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hemant Kumar, Advocate
For the Opposite Party/s : Mr.Ram Sumiran Rai,APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 10-08-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
13.07.2022 in connection with NDPS Case No. 16 of 2022
(Khaira P.S.Case No.267 of 2022), F.I.R. dated 12.07.2022
registered for the offence punishable under Sections 8,20(B)(II)
(C)25/29 of N.D.P.S.Act.

3. Recovery is of 575 Kg 500 Gm of Ganja.

4. Learned counsel appearing for the petitioner
submits that the petitioner has clean antecedent. He has falsely
been implicated in the present case and from bare perusal of the
FIR as well as the seizure list that 575 Kg 500 Gm of Ganja has
been recovered from the Truck in question and the petitioner



and other co-accused persons, namely, Ramjee Singh were apprehended alongwith the Ganja in question.

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 the commercial quantity and the F.S.L. report also confirms that the recovered contraband is Ganja and the bail application of co-accused, namely, Ramjee Singh, has been rejected vide order dated 15.05.2023 passed in Cr. Misc. No.7900 of 2023 by a Coordinate Bench of this Hon'ble Court.

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 NDPS Case No. 16 of 2022 (Khaira P.S.Case No.267 of 2022) pending in the court of learned 1st Additional Sessions Judge-cum-Special Judge, Saran at Chapra.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

Nitesh/-

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