

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6468 of 2023

Arising Out of PS. Case No.-776 Year-2022 Thana- BARACHATTI District- Gaya

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KRISHNA KUMAR S/O MAHAVIR MAHTO Resident of Village-
Dhanawa, P.S.-Barachatti, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

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

For the Opposite Party/s : Mr.Anil Kumar Singh No. 1,APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 24-07-2023 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
28.08.2022 in connection with Barachatti P.S. Case No. 776 of
2022 (NDPS Case No.47 of 2022) , F.I.R. dated 27.08.2022
registered for the offence punishable under Sections 18,20,22 of
N.D.P.S. Act.

3. As per the prosecution case, on seeing the police,
two miscreants boarded on a motorcycle started fleeing away
but they were apprehended by the police. On being asked, they
disclosed their names as the petitioner Krishna Kumar and the
co-accused Pappu Yadav. On search, Rs. 7,20,000/- was
recovered from the dickey of the motorcycle. They further
disclosed that they got this amount by selling opium. Petitioner



also disclosed that opium was kept at his house and on search of his house, 5 kg Afim, 400 Gram Doda and 1 Kg brown sugar were recovered.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. Further submits that from bare perusal of the FIR as well as the seizure list that altogether 5 kg of Afim has been recovered from possession of the petitioner and other articles have also been recovered from possession of the petitioner. Learned counsel for the petitioner submits that co-accused, namely, Pappu Yadav @ Pappu Kr. Yadav has been granted bail by a Coordinate Bench of this Hon'ble Court vide order dated 05.05.2023 passed in Cr. Misc. No.4816 of 2023 and the police, after investigation, submitted chargesheet against the petitioner.

5. Learned APP for the State, on the basis of the material available on the record and the case diary, has vehemently opposed the prayer for bail of the petitioner and submits that the FSL report confirms that the recovered contraband is more than the commercial quantity 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 contraband 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 P.S. Case No. 776 of 2022 (NDPS Case No.47 of 2022) pending in the court of learned



Additional Sessions Judge 1st-cum-Special Judge, NDPS Act,
Gaya.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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