

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10348 of 2023

Arising Out of PS. Case No.-5 Year-2021 Thana- D.R.I District- Patna

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1. Satyendra Ray S/O Late Ram Briskh Ray @ Rambrish Rai @ Tiger Singh R/v- Rustampur, P.S.- Raghapur, District- Vaishali, Bihar
 2. Jagdish Kumar S/O Murli Rai R/o- Ward No. 5, Rajasan, P.S.- Bidupur, District- Vaishali, Bihar

... .. petitioner/s

Versus

1. The State of Bihar
2. The Union Of India Through D.R.I. Patna Bihar

... .. Opposite Party/s

Appearance :

For the petitioner/s	:	Mr. Avanish Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Ramchandra Sahni, APP
For the DRI	:	Mr. Ranvir Kumar, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 27-07-2023 Heard learned counsel for the petitioners, learned counsel appearing on behalf of Directorate of Revenue Intelligence as well as learned APP for the State.

2. Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

3. Petitioners seeks bail who are in custody since 20.09.2021 in connection with Spl. Case No. 133 of 2021 arising out of DRI Patna P.S. 05 of 2021 for the offences punishable under Sections 20, 25 and 29 of the N.D.P.S. Act, 1985.



4. Recovery is of 382.500 kg of Ganja.

5. Learned counsel for the petitioners submits that petitioner, namely, Satyendra Ray carries 3 cases and petitioner, namely, Jagdish Kumar carries 1 case other than the present one and they have falsely been implicated in the present case. He further submits that from perusal of the F.I.R as well as seizure list nothing has been recovered from the possession of the petitioners rather the recovery has been made from the truck in question and the petitioners have no concern at all with the alleged recovery of the contraband.

6. Learned counsel appearing on behalf of the DRI as well as learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioners and submits that altogether 382.500 kg of Ganja has been recovered from the truck in question and the petitioners are apprehended from the Wagon-R car which was coming from the backside of the truck. They further submits that it has come during investigation that the petitioners are involved in the present occurrence and the bail of the similarly situated, co-accused, namely, Subhash Chaubey who was also apprehended along with the petitioners has been rejected by the Co-ordinate Bench of this Court vide order dated 24.02.2023 passed in Cr. 29316 of



2022 and the CRCL report dated 25.10.2021 also confirms that the recovered contraband is Ganja and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

7. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substance Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioners have not committed the offence and in the event of release he would not commit similar offence.

8. The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors. Vs. Rajesh and 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 **Union of India vs. Ajay Kumar Singh @ Pappu** reported in **2023 SCC OnLine SC 3456** dated 28.03.2023.

9. The recovery of huge quantity of Ganja recovered would not justify that the petitioners had no knowledge of the narcotic nor there is any material to substantiate that the petitioners would not commit such offence in the event of



release.

10. Hence, I am not inclined to enlarge the petitioners on bail in connection with Spl. Case No. 133 of 2021 arising out of DRI Patna P.S. 05 of 2021 pending in the Court of learned Additional Sessions Judge XIII, Patna.

11. Prayer is refused.

(Rajesh Kumar Verma, J)

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