

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10659 of 2023

Arising Out of PS. Case No.-13 Year-2022 Thana- BAJPATTI District- Sitamarhi

Md. Gulab Mansuri Son Of Late Sabir Mansuri R/O Village- Koriya Pipra,
P.S.- Parihar, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Syed Mojibur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 07-08-2023 Heard Mr. Birendra Kumar, learned counsel for the
petitioner and learned APP for the State.

2. Petitioner seeks bail who is in custody since 22.01.2022 in connection with Bajpatti P.S. Case No. 13 of 2022 for the offences punishable under Sections 399, 402, 413, 414 of the Indian Penal Code, Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 8, 20(b)(ii)(c)/22 of the N.D.P.S. Act.

3. The case relates to recovery of 1.600 Kg. of Charas, one loaded country made pistol with one live cartridge, two pointed iron rod, one hammer etc. from the possession of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner is innocent and he has falsely been implicated in the present case. He further submits that the allegation as



alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R.

5. Learned Additional Public Prosecutor, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that from perusal of the F.I.R. as well as seizure list that altogether 1.600 Kg. of Charas has been recovered from the possession of the petitioner and FSL report also confirms that the recovered contraband is Charas and it is more than the commercial quantity and hence there is embargo under Section 37 of the N.D.P.S. Act. Further submits that apart from the aforesaid, petitioner carries fifteen more cases other than the present one.

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 Substance Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that 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 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.

8. The recovery of huge quantity of *Charas* recovered 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 Bajpatti P.S. Case No. 13 of 2022, pending in the Court of learned Special Judge, Sitamarhi.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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