

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6580 of 2023

Arising Out of PS. Case No.-218 Year-2022 Thana- KUTUMBA District- Aurangabad

Rohit Kumar Mishra S/O Radha Balam Mishra @ Radha Ballabh Mishra
Resident of village- Barheta. P.S.- Kutumba, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Economic Offences Unit, Bihar, Patna.

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 8689 of 2023

Arising Out of PS. Case No.-218 Year-2022 Thana- KUTUMBA District- Aurangabad

Satrugghan Kumar Singh @ Satrugghan Singh Son Of Ram Nandan Singh R/O
Barheta, P.S.- Kutumba, District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Economic Offence Unit, Bihar, Patna

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 6580 of 2023)

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Advocate
		Miss. Nikita Mittal, Advocate
For the Opposite Party/s	:	Mr. Shyam Kumar Singh, APP
For the EOU	:	Mr. V.N.P Sinha, Sr. Advocate
		Mrs. Soni Shrivastava, Advocate

(In CRIMINAL MISCELLANEOUS No. 8689 of 2023)

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate
For the Opposite Party/s	:	Mr. Navin Kumar Pandey, APP
For the EOU	:	Mr. V.N.P Sinha, Sr. Advocate
		Mrs. Soni Shrivastava, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

13 01-12-2023 Heard Mr. Y.C Verma and Mr. Bindhyachal Singh,

learned senior counsel for the petitioners, Mr. V.N.P Sinha, Sr.

Advocate assisted by Mrs. Soni Shrivastava, learned counsel



appearing on behalf of E.O.U as well as Mr. Shyam Kumar and Navin Kumar Pandey, learned APP for the State.

2. Petitioners seeks bail who are in custody since 14.09.2022 in connection with Kutumba P.S. Case No. 218 of 2022 for the offences punishable under Sections 8, 20(b) (ii) (c), 25 and 29 of the N.D.P.S. Act, 1985.

3. Recovery is of 58 kg of Ganja.

4. Learned counsel for the petitioners submits that petitioners have clean antecedent and they have falsely been implicated in the present case merely on the basis that the petitioners have accompanied with other accused persons in the car in question from which the contraband has been recovered. He further submits that the petitioners have no concern at all with the alleged recovery of the contraband. He further submits that the petitioners have no role in the present occurrence and nothing has been recovered from the conscious possession of the petitioners rather the recovery has been made from the car in question and the petitioners are neither the owner nor the driver of the said car in question. He further submits that there is non-compliance of Section 50 of the NDPS Act.

5. Learned counsel appearing on behalf of E.O.U as well as learned Additional Public Prosecutor on the other hand



vehemently opposed the prayer for bail of the petitioners and submits that the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act. They further submits that apart from the aforesaid, the bail application of Shyam Kishore Mishra @ Shyam Mishra has been rejected by the Co-ordinate Bench of this Hon'ble Court vide order dated 19.09.2023 passed in Cr. Misc. No. 33951 of 2023.

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 Ganja recovered would not justify that the petitioners 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 petitioners on bail in connection with Kutumba P.S. Case No. 218 of 2022 pending in the Court of learned 1st Additional District & Sessions Judge cum Special Judge (N.D.P.S), Aurangabad.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

Vanisha/-

U		T	
---	--	---	--

