

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14173 of 2023

Arising Out of PS. Case No.-384 Year-2022 Thana- BUXAR MUFFSIL District- Buxar

KAMAL KUMAR SINGH Son of Abhimanyu Singh Resident of Village-
Chain Chapra, P.S.- Krishnagarh Saraiya, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rana Vikram Singh, Advocate

For the Opposite Party/s : Mr. Dinesh Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 24-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail who is in custody since
03.09.2022 in connection with Buxar (Muffasil) P.S. Case No.
384 of 2022 (Pre Trial NDPS Case No. BRBU10P0019462022)
for the offences punishable under Section 414 of the Indian
Penal Code and Sections 20(B)/22(C), 25, 29 of the N.D.P.S.
Act.

The case relates to recovery of 121.407 Kg. of *Ganja*.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that it appears
from the F.I.R. as well as seizure list that altogether 121.407 Kg.
of *Ganja* was recovered from the vehicle in question. He further



submits that it appears from the F.I.R. as well as seizure list that nothing has been recovered from the possession of the petitioner rather recovery has been made from the vehicle in question and the petitioner was sitting along with other co-accused persons in the vehicle. He further submits that there is non compliance of Sections 42, 43 and 50 of the N.D.P.S. Act and the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 03.09.2022.

Learned Additional Public Prosecutor, on the other hand, on the basis of material available on record and case diary, vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Ganja and the recovery is more than the commercial quantity and hence there is embargo under Section 37 of the N.D.P.S. Act.

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.



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.

The recovery of huge quantity of Ganja 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.

Hence, I am not inclined to enlarge the petitioner on bail in connection with Buxar (Muffasil) P.S. Case No. 384 of 2022 (Pre-Trial NDPS Case No. BRBU10P0019462022), pending in the Court of learned In-charge Special Judge, N.D.P.S. Act, Buxar.

Prayer is refused.

(Rajesh Kumar Verma, J)

Ibrar//-

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

