

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8888 of 2023

Arising Out of PS. Case No.-472 Year-2022 Thana- UDWANTNAGAR District- Bhojpur

Vijay Kumar Singh Son Of Late Dhaja Singh R/O Village- Baligaon, P.S.-
Ayar, District- Bhojpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

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

Petitioner seeks bail who is in custody since
09.10.2022 in connection with Udwantnagar P.S. Case No. 472
of 2022 for the offences punishable under Sections 8(c) and
21(b) of the N.D.P.S. Act.

Recovery is of 400 gram of Heroin.

Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case. He further submits that as per the allegation in the
F.I.R. altogether 400 gram Heroin has been recovered from the



possession of the petitioner. He further submits that there is non-compliance of Section 50 of the NDPS Act as well as Section 100 of Cr.P.C.

Learned Additional Public Prosecutor 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 Heroin and the recovered contraband is more than the commercial quantity, so 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 Heroin 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 Udwanthnagar P.S. Case No. 472 of 2022 pending in the Court of learned Sessions Judge, Bhojpur Ara.

Prayer is refused.

(Rajesh Kumar Verma, J)

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