

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12608 of 2023

Arising Out of PS. Case No.-108 Year-2010 Thana- RAXAUL District- East Champaran

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DHANANJAY KUMAR S/o Late Lal Babu Gupta R/o Village- Ahiyapur,
P.S.- Sahebganj, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate

For the Opposite Party/s : Mr. Navin Kumar Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 26-06-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
19.09.2022 in connection with N.D.P.S. Case No. 37 of 2010,
arising out of Raxaul P.S. Case No. 108 of 2010, F.I.R. dated
30.06.2010 for the offences punishable under Section 20, 22, 23,
24 of the N.D.P.S. Act.

Recovery is of total 117 kg. Ganja from the car in
question.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and has committed no offence
and he has falsely been implicated in the present case merely on
the basis of suspicion. He further submits that nothing has been
recovered from the conscious possession of the petitioner or the
house of the petitioner rather the recovery has been made from



the Car in question. He further submits that petitioner is neither the driver, nor the owner of the car in question and the petitioner has no concern with the alleged recovery.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation that the petitioner has purchased the car in question from one Lal Babu Sah in the year 2010 itself and it has also come during investigation in para 99 of the case diary that the wife of the petitioner confessed that the petitioner has purchased the car in question from the Lal Babu Sah.

As per Narcotic Drugs and Psychotropic Substances Act, 1985, commercial quantity of Ganja is 20 kg. and the small quantity of Ganja is 500 gms. but the recovery in the present case is of 117 kg. Ganja which is more than the commercial quantity.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances 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* in **Cr. Appeal Nos.1001-1002 of 2022** arising out of **Special Leave to Appeal (CRL.) No. 6128-29 of 2021**.

The recovery of commercial quantity of Ganja from the car in question of the petitioner would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Considering the aforesaid facts and circumstances, I am not inclined to grant the privilege of bail to the petitioner in connection with - N.D.P.S. Case No. 37 of 2010, arising out of Raxaul P.S. Case No. 108 of 2010 pending in the court of learned 14th Additional Session-Judge-cum-Special Judge (N.D.P.S.), East Champaran, Motihari.

Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

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