

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12797 of 2023

Arising Out of PS. Case No.-648 Year-2021 Thana- HAJIPUR SADAR District- Vaishali

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SURAJ PATEL S/O ASHOK PATEL Resident of Village- S.D.O. Road,
Hajipur, P.S.- Hajipur Town, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Kumar Thakur, Advocate

For the Opposite Party/s : Mrs. Rina Sinha, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-07-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
19.07.2021 in connection with Hajipur Sadar P.S. Case No.648
of 2021, F.I.R. dated 17.07.2021 for the offences punishable
under Section 20, 22, 23, 24, 27 and 29 of the N.D.P.S. Act.

Recovery is of total 35.200 kg. Ganja from the bag of
the petitioner.

Learned counsel for the petitioner submits that
petitioner has committed no offence 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 35.200 Kg. Ganja was
recovered from the bag of the petitioner. He further submits that
the allegation as alleged in the F.I.R. is false and fabricated and



petitioner has not committed any offence as alleged in the F.I.R. and there is non-compliance of Sections 42 and 50 of the N.D.P.S. Act.

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 F.S.L. report confirms that the recovered contraband is Ganja. He further submits that the bail application of similarly situated co-accused namely, Sanjay Kumar Paswan @ Sanjay Kumar has been rejected vide order dated 05.04.2022 passed in Cr. Misc. No.52700 of 2021. He further submits that petitioner carries three criminal antecedents other than the present one.

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 35.200 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 bag 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 Hajipur Sadar P.S. Case No. 648 of 2021 pending in the court of learned A.D.J.-Ist, Vaishali at Hajipur.

Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

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