

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13367 of 2023

Arising Out of PS. Case No.-646 Year-2022 Thana- FORBESGANJ District- Araria

Amit Kumar S/O Bindeshwari Yadav Resident of village- Rajgawn, Ward
No.- 6, P.S.- Jadia, District- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amresh Kumar Sinha, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 19-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. 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.

3. Petitioner seeks bail who is in custody since
25.06.2022 in connection with Special Case No. 19 of 2022
arising out of Forbesganj P.S. Case No. 646 of 2022 for the
offences punishable under Sections 8, 20(b)(ii)(c) of the
N.D.P.S. Act, 1985 and Sections 25(1-b)a, 26 and 35 of the
Arms Act.

4. Recovery is of 30 kg of Ganja.

5. 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 the petitioner was not apprehended at the spot and the name of the petitioner has been transpired during investigation on the basis of the disclosure made by the co-accused, Shyam Sunder Yadav. He further submits that as per the allegation in the F.I.R. altogether 30 kg of Ganja has been recovered from the vehicle in question. He further submits that there is non-compliance of Section 50 of the NDPS Act.

6. Learned Additional Public Prosecutor on the basis of material available on the record and the 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 recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

7. 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 petitioners have not committed the offence and in the event of release he would not commit similar offence.



8. 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.

9. 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.

10. Hence, I am not inclined to enlarge the petitioner on bail in connection with Special Case No. 19 of 2022 arising out of Forbesganj P.S. Case No. 646 of 2022 pending in the Court of learned Sessions Judge, Araria.

11. Prayer is refused.

(Rajesh Kumar Verma, J)

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