

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19377 of 2023

Arising Out of PS. Case No.-328 Year-2022 Thana- DALSINGHSARAI District- Samastipur

Deepak Kumar Deepak @ Deepak Kumar Son Of Arbind Sah R/O Village-
Pusaho, P.S.- Bithan, District- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union Of India Through Ncb, Patna, Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Jitendra Narain Sinha, Advocate
For the UOI	:	Mr. Manoj Kumar Singh, C.G.C
		Mr. Ankit Kumar Singh, Advocate
		Mr. Prabhat Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 16-08-2023 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of Union of India.

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
27.08.2022 in connection with Dalsingsarai P.S Case No. 328 of
2022 for the offences punishable under Sections 8/ 20(b)
(ii)/C/25/29 of the N.D.P.S. Act, 1985 and Sections 25(1-B)A,
26 of the Arms Act.

4. Recovery is of 42 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 as per the allegation in the F.I.R. as well as seizure list altogether 42 kg of Ganja has been recovered from the vehicle in question. He further submits that there is non-compliance of Sections 42 and 50 of the NDPS Act.

6. Learned counsel appearing on behalf of Union of India on the other hand vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation that the petitioner is the owner of the vehicle in question and the recovered contraband is Ganja which 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 petitioner has 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 Dalsingsarai P.S Case No. 328 of 2022 pending in the Court of learned Sessions Judge, Samastipur.

11. Prayer is refused.

(Rajesh Kumar Verma, J)

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