

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19286 of 2023

Arising Out of PS. Case No.-954 Year-2022 Thana- MUFFASIL District- West Champaran

Awdhesh Kumar Yadav @ Awashesh Kumar Yadav @ Awadesh Kumar Yadav
Son Of Vinod Yadav Resident Of Village Jagarnathpur, Ps Gopalpur, Distt-
West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Preeti Kumari, Advocate

For the Opposite Party/s : Mr. Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 27-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail who is in custody since
12.11.2022 in connection with Bettiah Mufassil (Banuchhapar)
P.S. Case No. 954 of 2022 for the offences punishable under
Section 414 of the Indian Penal Code and Sections 8/20(b)(ii),
(c) /23(c) of the N.D.P.S. Act.

3. Recovery is of 4.597 kg of Charas.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. She further submits that the
allegation as alleged in the F.I.R. is false and fabricated and the
petitioner has not committed any offences as alleged in the



F.I.R. She further submits that as per the allegation in the F.I.R. altogether 4.597 kg of Charas like substance has been recovered from the petitioner. She further submits that there is non-compliance of Section 42 and 50 of the NDPS Act.

5. Learned Additional Public Prosecutor on the basis of material available on record and the case diary has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Charas and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

6. 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 has not committed the offence and in the event of release he would not commit similar offence.

7. 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.

8. The recovery of huge quantity of Charas 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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with Bettiah Mufassil (Banuchhapar) P.S. Case No. 954 of 2022 pending in the Court of learned Sessions Judge, West Champaran at Bettiah.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

Vanisha/-

U		T	
---	--	---	--

