

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22147 of 2023

Arising Out of PS. Case No.-377 Year-2020 Thana- SASARAM MUFFSIL District- Rohtas

Md. Mela Bind @ Mela Bind @ Ajeet Kumar S/O- Tileshwar Bind Village
Adampur , Ps Sasaram M , Dist.- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar
2. Union of India, through Narcotics Control Bureau, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate
For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP
For the UOI : Mr. Sujeet Kumar Sinha, C.G.C

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-07-2023 Heard learned counsel for the petitioner, learned
counsel appearing on behalf of the Union of India as well as
learned Additional Public Prosecutor for the State.

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.

Petitioner seeks bail who is in custody since
18.11.2022 in connection with NDPS Case No. 01 of 2021
arising out of Sasaram (M) P.S. Case No. 377 of 2020 , F.I.R.
dated 07.12.2020 for the offences punishable under Sections 8,
20(b)(ii)(c), 25 and 29 of the NDPS Act.

Recovery is of 582.96 kg of Ganja

Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the
present case. It appears from the F.I.R. that no incriminating



contraband has been recovered from the possession of the petitioner rather the recovery has been made from the truck in question and the petitioner is neither the owner nor the driver of the truck in question. He further submits that except the confessional statement of the co-accused, no cogent material has come during investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that there is non-compliance of Section 50 of the NDPS Act.

Learned counsel appearing on behalf of the Union of India as well as Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that altogether 582.96 kg of Ganja has been recovered from the truck in question and it has come during investigation that the petitioner was involved in the present crime in question and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

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.

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.

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.

Hence, I am not inclined to enlarge the petitioner on bail in connection with NDPS Case No. 01 of 2021 arising out of Sasaram (M) P.S. Case No. 377 of 2020 pending in the Court of learned Additional District Judge XI, Rohtas at Sasaram.

Prayer is refused.

(Rajesh Kumar Verma, J)

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