

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30713 of 2023

Arising Out of PS. Case No.-115 Year-2022 Thana- KISHANGANJ District- Kishanganj

Babita Ghosh @ Babita Ghose D/O Pandav Ghosh @ Pandab Ghosh R/O
Maheshpur Krishnapur Nazirpur, P.S.- Karandih, District- Uttar Dinajpur
(W.B.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Diwakar Sinha, Advocate

For the Opposite Party/s : Mr. Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 11-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail who is in custody since
17.03.2022 in connection with Special Case No. 18 of 2022
arising out of Kishanganj P.S. Case No. 115 of 2022 for the
offences punishable under Sections 22(c), 27a, 29 of the
N.D.P.S. Act, 1985.

3. Recovery is of 1.2028 kg of brown sugar.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and she has falsely been
implicated in the present case. He further submits that as per the
allegation in the F.I.R. altogether 1.2028 kg of brown sugar has
been recovered from the possession of the petitioner. He further



submits that there is non-compliance of Section 42 and 50 of the NDPS Act. He further submits that the police after investigation have submitted the charge sheet against the petitioner.

5. Learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that there is direct and specific allegation against the petitioner that she was apprehended along with the contraband and the the F.S.L. report confirms that the recovered contraband is Monoacetyl Morphine and the recovered contraband is 4 times 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 petitioner 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 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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with Special Case No. 18 of 2022 arising out of Kishanganj P.S. Case No. 115 of 2022 pending in the Court of learned Sessions Judge cum Special Judge (NDPS Act), Kishanganj.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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