

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28812 of 2023

Arising Out of PS. Case No.-305 Year-2022 Thana- GAYA RAIL P.S. District- Gaya

Manprit Singh S/O- Pawan Singh, R/o Village- Jaga Ram Tirath Ps- Talwandi
Sabo Dist- Bathinda Punjab.

.... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Praveen Kumar, Advocate
For the Opposite Party/s : Mr. Madhura Nand Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 12-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
22.07.2022 in connection with Gaya Rail P.S. Case No.305 of
2022, arising out of N.D.P.S. Case No.40 of 2022, F.I.R. dated
21.07.2022 for the offences punishable under Sections 18, 20
and 22 of the N.D.P.S. Act.

Recovery is of total 36.450 kg. Poppy husk (Doha)
from the possession of the petitioner.

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 it appears
from the F.I.R. as well as seizure list that all together 36.450 Kg.
Poppy husk (Doha) has been recovered from the possession of
the petitioner. He further submits that petitioner has no concern



with the alleged recovery.

Learned A.P.P. for the State has vehemently opposed the prayer for bail of the petitioner and submits that F.S.L. report confirms that the recovered contraband is Morphine, which would be evident from the result of examination, which is as follows :-

“Result of Examination

Morphine was detected in the contents of tin dibba as described above. Morphine is an opium alkaloid derived from Poppy plant (*papaver somniferum*). It is an narcotic drug and highly addictive in nature.”

According to N.D.P.S. Act, 1985 commercial quantity of Morphine is described as 250 grm. whereas the small quantity is specified as 5 grams. Here in the case at hands altogether 36.450 Kg. of Poppy Husk (Doha) containing Morphine is recovered which fall under the purview of commercial quantity, therefore rigours of Section 37 of N.D.P.S. Act would apply in this case.

The grant of bail in NDPS cases, where the recovery of more than the commercial quantity of narcotic is alleged, is circumscribed under Narcotic Drugs and Psychotropic Substances 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.

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*.

The recovery of more than the commercial quantity of Morphine from the possession of the petitioner would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Considering the aforesaid facts and circumstances, I am not inclined to grant the privilege of bail to the petitioner in connection with Rail Gaya P.S. Case No.305 of 2022 (N.D.P.S. Case No.40 of 2022), pending in the court of learned Additional Session Judge-1st-cum-Special Judge, N.D.P.S. Act, Gaya.

Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

mdrashid/-

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

