

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25592 of 2023

Arising Out of PS. Case No.-12 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Aurangabad

Binay Kumar Pandey @ Vinay Kumar Pandey @ Vinay Pandey Son Of
Dayanand Pandey Resident Of Village- Badki Sanadhiya, Po- Ratanpur, P.S-
Muffasil, Ara, Distt- Bhojpur

... .. Petitioner/s

Versus

Tthe Union Of India Through Narcotic Control Bureau , Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 27013 of 2023

Arising Out of PS. Case No.-12 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Aurangabad

Bhajan Meher Son Of Late Purun Meher Village -behera Palasa Pada, Ps
Kokshar, Distt- Kalahandi (orissa) 766103

... .. Petitioner/s

Versus

The Union Of India Through Narcotic Control Bureau , Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 25592 of 2023)

For the Petitioner/s : Mr. Sada Nand Ray, Advocate

For the UOI : Mr. Ram Anurag Singh, CGC

(In CRIMINAL MISCELLANEOUS No. 27013 of 2023)

For the Petitioner/s : Mr. Shankar Kumar, Advocate

For the UOI : Mr. Manoj Kumar Singh, CGC

Mr. Ankit Kumar Singh (JC)

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 17-08-2023 Heard learned counsel for the petitioners and learned
counsel appearing for the Union of India.

2. Petitioners seek bail, who are in custody since



11.04.2022 and 07.02.2023 respectively, in connection with NCB Crime No. 12 of 2022, G.R. No. 16 of 2022 for the offences punishable under Sections 8(C)/20(b)(ii)(c)/25/29 of the N.D.P.S. Act.

3. The case relates to recovery of 127.900 Kgs. of *Ganja*.

4. Learned counsel for the petitioners submits that the petitioner namely Binay Kumar Pandey @ Vinay Kumar Pandey @ Vinay Pandey has clean antecedent whereas petitioner namely Bhajan Meher carries two more cases other than the present one and they have been falsely implicated in the present case. Learned counsel for the petitioners submits that altogether 127.900 Kgs. of Ganja has been recovered from the truck in question and the petitioner namely Binay Kumar Pandey is the driver of the truck in question and he was apprehended along with the Ganja from the truck as mentioned in the F.I.R. and name of the petitioner namely Bhajan Meher has come on the basis of confessional statement of Binay Kumar Pandey. Learned counsel for the petitioner (Bhajan Meher) submits that it appears from the F.I.R. that nothing has been recovered from the conscious possession of the petitioner and except the confessional statement of co-accused, no other



cogent material has come during investigation to suggest the involvement of the petitioner (Bhajan Meher) in the present occurrence.

5. Learned counsel for the Union of India, on the other hand, vehemently opposed the prayer for bail of the petitioners and submits that the recovered contraband is more than the commercial quantity and F.S.L. report also confirms that the recovered contraband is *Ganja*. Further submits that the petitioner namely Bhajan Meher was regularly touch with co-accused person namely Binay Kumar Pandey @ Vinay Kumar Pandey @ Vinay Pandey and others and Binay Kumar Pandey @ Vinay Kumar Pandey @ Vinay Pandey has confessed his guilt and he has categorically stated that he has received the alleged contraband from the co-accused Bhajan Meher. Further submits that CDR link also established the concerning between both the petitioners and apart from that the petitioner namely Bhajan Meher is also involved in other NDPS matter which has mentioned in paragraph-3 of the bail petition (NCB Case No. 14/22 under Sections 8(c) read with 20(b)(ii)(c), 25, 29 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 have not committed the offence and in the event of release they 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 petitioners had no knowledge of the narcotic nor there is any material to substantiate that the petitioners would not commit such offence in the event of release.

9. Considering the aforesaid facts that the recovered contraband is more than the commercial quantity and during investigation it has been established the involvement of the petitioners namely Binay Kumar Pandey @ Vinay Kumar Pandey @ Vinay Pandey and the petitioner namely Bhajen



Meher in the present occurrence, I am not inclined to enlarge the petitioners on bail in connection with NCB Crime No. 12 of 2022, G.R. No. 16 of 2022, pending in the Court of learned 1st Additional District & Sessions Judge-cum-Special Judge, N.D.P.S. Aurangabad.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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