

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27353 of 2023

Arising Out of PS. Case No.-472 Year-2021 Thana- SUGAULI District- East Champaran

VIVEK VERMA Son of Gajendra Prasad Verma Resident of Naga Road P.S.-
Sugali, Raxaul, Ward No. 4, Motihari, District-East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Archana Sinha @ Archana Shahi
For the Opposite Party/s : Mr.Nirmal Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 11-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
13.11.2021 in connection with Sugauli P.S. Case No. 472 of
2021 F.I.R. dated 12.11.2021 for the offences punishable under
Sections 20(b)(ii), 23, 27(a) and 29 of the N.D.P.S. Act.

3. According to prosecution case, recovery of 4.010kg
Charas has been made from the dickey of the motorcycle.

4. 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 the
allegation as alleged in the F.I.R., is false and fabricated and he
has not committed any offence. He further submits that
recovered contraband which was found from the possession of



the petitioner is only 518gm of *Charas*, which is less than the commercial quantity, therefore, there would be no embargo of Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail.

5. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that altogether 4.010kg of *Charas* was recovered from the possession of the petitioner and other co-accused persons. He further submits that recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act to enlarge the petitioner on bail.

6. The grant of bail in N.D.P.S. cases where the recovery of commercial quantity of narcotic is allege 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.

7. The issue was considered by the Hon'ble Supreme Court in the case of *State of Kerala and Ors. Vs. Rajesh & Ors.* reported in *2020(12) SCC 122* as well as in the case of *Narcotic Control Bureau Vs. Mohit Aggarwal in Cr. Appeal Nos. 1001-1002 of 2022* arising out of *Special leave to Appeal (CRL.) No.*



6128-29 of 2021.

8. The recovery of huge quantity of *Charas* from possession of the petitioner 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 Sugauli P.S. Case No. 472 of 2021 pending in the court of learned 14th Additional Sessions Judge -cum- Special Judge, N.D.P.S., East Champaran.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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