

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29404 of 2023

Arising Out of PS. Case No.-109 Year-2021 Thana- EKMA District- Saran

Manoj Nut @ Mohan Nut Son of Tun Tun Nut Resident of Village - Paiga,
P.S.- Veldi, District - Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tej Narayan Singh, Advocate

For the Opposite Party/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 05-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail who is in custody since 23.03.2021 in connection with NDPS Case No. 09 of 2021 arising out of Ekma P.S Case No. 109 of 2021 for the offences punishable under Sections 8/ 20(b)(ii)(c) 25/29 of the N.D.P.S. Act, 1985.

3. Recovery is of 74.8 kg of Ganja.

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 it appears from the F.I.R. as well as seizure list that altogether 74.08 kg of Ganja has been recovered from the vehicle in question. He further submits that the petitioner has no concern at all with the



alleged recovery of the contraband and the petitioner is only driver of the said vehicle in question. He further submits that there is non-compliance of Section 42 and 50 of the NDPS Act.

5. Learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is 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 NDPS Case No. 09 of 2021 arising out of Ekma P.S Case No. 109 of 2021 pending in the Court of learned 1st Additional Sessions Judge cum Special Judge, Saran (Chapra).

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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