

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27876 of 2023

Arising Out of PS. Case No.-281 Year-2022 Thana- RAGHOPUR District- Vaishali

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Bhona Saw @ Bhonu Saw @ Bhonu Shah S/o Rajendra Saw R/o village-
Chandpura, P.S.-Raghopur, District-Vaishali at Hajipur Petitioner/s
Versus

The State of Bihar Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Niranjan Parihar, Advocate

For the Opposite Party/s : Mr. Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 13-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail who is in custody since
10.09.2022 in connection with Raghopur P.S. Case No. 281 of
2022 for the offences punishable under Sections 414/341 of the
Indian Penal Code and Sections 20(b) (ii) (C) /23(C) /27 of the
N.D.P.S. Act, 1985.

3. Recovery is of 74.500 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 the
allegation as alleged in the F.I.R. is false and fabricated and the
petitioner has not committed any offences as alleged in the
F.I.R. He further submits that as per the allegation in the F.I.R.
altogether 74.500 kg of Ganja has been recovered from the
tempo in question and the petitioner was found running out from



the said tempo. He further submits that the co-accused namely, Krishna Kumar has disclosed that the petitioner was running out from the tempo and he was accompanied with the petitioner. 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 altogether 74.500 kg of Ganja has been recovered from the tempo in question and the F.S.L. report also confirms that the recovered contraband is Ganja and the bail application of the co-accused, namely, Krishna Kumar has been rejected by a Co-ordinate Bench of this Hon'ble Court vide order dated 28.04.2023 passed in Cr. Misc. No. 609 of 2023. He further 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 Raghapur P.S. Case No. 281 of 2022 pending in the Court of learned Additional Sessions Judge 1st Vaishali at Hajipur.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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