

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27975 of 2023

Arising Out of PS. Case No.-430 Year-2022 Thana- BAISI District- Purnia

Sakaldeep Roy S/O Meghnath Roy R/O Village- Jadua Ward No. 32, P.S-
Sadar, Distt.- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 11-09-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. Petitioner seeks bail who is in custody since
02.11.2022 in connection with Special (NDPS Act) Case No. 25
of 2023/ CIS No. 25 of 2023 arising out of Baisi P.S. Case No.
430 of 2022 for the offences punishable under Sections 8/20(b)
(ii) (c)/25 of the N.D.P.S. Act, 1985.

3. Recovery is of 28.881 kg 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 F.I.R. as well as seizure list that nothing has been
recovered from the conscious possession of the petitioner rather
the recovery has been made from the vehicle in question and the



petitioner is neither the owner nor the driver of the said vehicle in question. He further submits that there is non-compliance of Section 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 28.881 kg Ganja has been recovered from vehicle in question and the petitioner was arrested along with the contraband and the F.S.L. report confirms that the recovered contraband is Ganja and 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 Special (NDPS Act) Case No. 25 of 2023/ CIS No. 25 of 2023 arising out of Baisi P.S. Case No. 430 of 2022 pending in the Court of learned Special Judge, NDPS Act, Purnea.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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