

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28607 of 2023

Arising Out of PS. Case No.-41 Year-2022 Thana- SULTANGANJ District- Bhagalpur

AAKASH MANDAL @ AAKASH KUMAR S/O DASHRATH MANDAL
R/O Village- Kamarganj, P.S- Sultanganj, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agrawal, Sr. Advocate
		Mr. Kumar Kamal Nayan, Advocate
For the Opposite Party/s	:	Mr. Harendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-07-2023 Heard Mr. N.K. Agrawal, learned Senior counsel for
the petitioner and learned APP for the State.

Petitioner seeks bail who is in custody since
01.05.2022 in connection with Sultanganj P.S. Case No. 41 of
2022 for the offences punishable under Sections 20/22 of the
N.D.P.S. Act.

The case relates to recovery of 21 Kg. of *Ganja*.

Learned Senior counsel for the petitioner submits that
petitioner carries one more case other than the present one and
he has falsely been implicated in the present case. He further
submits that on the basis of disclosure made by co-accused
person the house of the petitioner was raided and altogether 21
Kg. of *Ganja* was recovered from the house of the petitioner.



Learned Senior counsel for the petitioner further submits that it appears from the seizure list there is no independent witness on the seizure list and there is non compliance of Section 100 of the Cr. P.C. The petitioner is in custody since 01.05.2022.

Learned Additional Public Prosecutor, on the other hand, on the basis of material available on record and case diary, vehemently opposed the prayer for bail of the petitioner and submits that altogether 21 Kg. of Ganja has been recovered from the house of the petitioner and the recovered contraband is more than the commercial quantity as well as the F.S.L. report also confirms that the recovered contraband is Ganja and hence there is embargo under Section 37 of the N.D.P.S. Act.

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.

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.

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.

Hence, I am not inclined to enlarge the petitioner on bail in connection with Sultanganj P.S. Case No. 41 of 2022, pending in the Court of learned Sessions Judge, Bhagalpur.

Prayer is refused.

(Rajesh Kumar Verma, J)

Ibrar//-

U		T	
---	--	---	--

