

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35111 of 2023

Arising Out of PS. Case No.-14 Year-2023 Thana- CHORAUT District- Sitamarhi

Harendra Kumar son of Devendra Yadav @ Devendra Ray Village- Khorima
Po Ps- Choraut Dist- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Rajeev Ranjan, Advocate Mr. Santosh Kumar, Advocate
For the Opposite Party/s :	Mr. Bhanu Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 16-10-2023 Heard Mr. Rajeev Ranjan, learned counsel for the
petitioner and Mr. Bhanu Pratap Singh, learned APP for the
State.

2. Petitioner is apprehending his arrest in connection
with Choraut Case No. 14 of 2023 for the offences punishable
under Sections 8, 20(b) (ii)(c) of the N.D.P.S. Act, 1985.

3. Recovery is of 48 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 48 kg of Ganja has been recovered from the cowshed of the petitioner. He further submits that the petitioner is not the exclusive owner of the cowshed. He further submits that there is non-compliance of Section 42 and 43 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 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 grant the privilege of anticipatory bail to the petitioner in connection with Choraut Case No. 14 of 2023 pending in the Court of learned District and Sessions Judge Sitamarhi.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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