

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.31212 of 2022

Arising Out of PS. Case No.-240 Year-2021 Thana- SURSAND District- Sitamarhi

MD. SAMIM @ CHHOTE ANSARI S/o Late Md. Muslim Ansari Resident
of Village- Pathanpura Ward No.14, P.S.- Sursand, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The Union Of India through DRI Muzaffarpur.
2. The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Syed Asgher Najmi, Advocate
For the Opposite Party/s : Mr.K.N. Singh, A.S.G.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 25-01-2023 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks bail in a case registered for the offence under Sections 8/20(b)(ii)(B) of N.D.P.S. Act, 1985.

Recovery is of 02 Kag of Ganja and 500 Gm of Charas.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. Further submits that it appears from the FIR as well as seizure list that 02 Kg of Ganja has been recovered from the Pithu Bag



of the petitioner and 500 Gm of Charas has been recovered from Pithu Bag of co-accused Shibu Sahni. Further submits that the police has not sent the seized article to Forensic Science Laboratory for its verification and petitioner is in custody since 22.05.2021.

Learned counsel for the State, on the other hand, on the basis of the material available on the record and the case diary has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. Report confirms that the recovered contraband is Ganja and Charas and there is embargo under Section 37 of the N.D.P.S.Act. Further submits that the petitioner carries seven more cases other than the present one.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substances 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 & 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.**

The recovery of huge quantity of Ganja from possession of the petitioner 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 Sursand P.S.Case No.240 of 2021 pending in the court of learned Sessions Judge-cum-Special Judge, Sitamarhi.

Prayer is refused.

(Rajesh Kumar Verma, J)

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