

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34607 of 2022

Arising Out of PS. Case No.-97 Year-2021 Thana- GAYA GRP CASE District- Gaya

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Dharmendra Kumar @ Dharmendra Kumar Gond Son of Asharfi Gond
Resident of Village- Rupahi Tar, Khaira Tola, Police Station- Bhitaha, District
- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kr Singh No. 1, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 01-02-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Let the defects, as pointed out by the office, be
removed within a period of four weeks.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 8, 20 (b) (ii) (c) of the
N.D.P.S. Act.

As per prosecution case, total 22.100 kg of ganja
has been recovered from three bags of the petitioner which was
kept below his berth.

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 the F.I.R. that altogether 22.100 kg of Ganja has been recovered which was kept below the berth. He further submits that the petitioner has falsely been implicated in the present case only on the basis of suspicion.

The learned Additional Public Prosecutor vehemently opposed the prayer of bail of the petitioner on the basis of the materials available on record and the case diary and submits that FSL report also confirms that recovered contraband is ganja and the recovered quantity of ganja is more than the commercial quantity.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under the NDPS Act, 1985. Section 37 of the said Act says that before grant of bail, the Court must have reason to believe that the petitioner has not committed the offence and in the event of release, he would not commit similar offence in future.

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.**

The recovery of huge quantity of ganja would not



justify that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that 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 N.D.P.S Case No. 49 of 2021 arising out of Gaya Rail P.S. Case No. 97 of 2021 pending in the court of learned Sessions Judge, Gaya.

Prayer is refused.

(Rajesh Kumar Verma, J)

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