

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36427 of 2023**

Arising Out of PS. Case No.-128 Year-2022 Thana- KANHAULI District- Sitamarhi

Pawan Kumar Son Of Ganesh Mahto Resident Of Village- Kata Chok
Sitamarhi @ Kanta Chowk Sitamarhi, P.S- Sitamarhi, Distt- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

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

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 03-08-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seek bail, who is in custody since 18.08.2022 in connection with Kanhauli P.S. Case No. 128 of 2022, F.I.R. dated 18.08.2022 registered for the offence punishable under Sections 8/20(B)(ii)(A) of N.D.P.S. Act and Section 30(a) of Bihar Prohibition and Excise Act, 2018.

3. Recovery is of 900 Gms of Charas like substance and 90 liters of Nepali Saufi.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR.



5. Learned APP for the State, 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 altogether 900 Gms of Charas like substance and 90 liters of Nepali Saufi was recovered from the Tempo in question and the F.S.L. report also confirms that the recovered contraband is Charas and the recovered contraband is more than the commercial quantity.

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 Substances Act, 1985, Section 37 which 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.

7. 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** and recently decided the judgment in the case of **Union of India Vs. Ajay Kumar Singh @ Pappu**, reported in **2023 SCC OnLine SC 346**.



8. The recovery of huge quantity of Charas 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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with Kanhauli P.S. Case No. 128 of 2022 pending in the court of learned Special Judge, NDPS Act, Sitamarhi.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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