

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36686 of 2023

Arising Out of PS. Case No.-943 Year-2022 Thana- GOPALGANJ TOWN District-
Gopalganj

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Jahir Hussain @ Jahid Hussain S/O Late Jalil Miya R/O Jadopur Sukla, PS.
Jadopur, Dist. Gopalganj, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indrajeet Bhushan, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 15-09-2023 Heard learned counsel for the petitioner learned APP
for the State.

2. Petitioner seeks bail who is in custody since
16.11.2022 in connection with Trial No. 71 of 2022 arising out
of Gopalganj (Town) P.S. Case No. 943 of 2022 for the offences
punishable under Sections 8/20(b)(ii)(C) of the N.D.P.S. Act and
Section 414 of the Indian Penal Code.

3. The case relates to recovery of 45.300 Kgs. of
Ganja.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that from
perusal of the F.I.R. it appears that nothing has been recovered
from the conscious possession of the petitioner rather recovery
has been made from the vehicle in question and altogether



45.300 Kgs. of *Ganja* was recovered from the vehicle in question and the petitioner was apprehended along with the vehicle and the contraband along with other co-accused persons. He further submits that it has come during investigation that the seized vehicle was the stolen vehicle.

5. Learned Additional Public Prosecutor, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that it appears from the F.I.R. as well as seizure list that altogether 45.300 Kgs. of *Ganja* has been recovered from the vehicle in question and the petitioner was apprehended along with contraband and the stolen vehicle. He further submits that the FSL report confirms that the recovered contraband is *Ganja* and recovery is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act and FSL report also confirms that the recovered contraband is *Ganja*.

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 enlarge the petitioner on bail in connection with Trial No. 71 of 2022 arising out of Gopalganj (Town) P.S. Case No. 943 of 2022, pending in the Court of learned District & Sessions Judge, Gopalganj.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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