

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38185 of 2023

Arising Out of PS. Case No.-530 Year-2022 Thana- RIGA District- Sitamarhi

Md. Danish @ Danish Kumar Son of Md. Chhote Resident of village -
Hasanpur Barharwa, P.S. - Bajpatti, Distt. - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ritesh Kumar Narain Singh, Advocate
For the Opposite Party/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 01-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail who is in custody since
29.11.2022 in connection with Riga P.S. Case No. 530 of 2022
for the offences punishable under Section 414 of the Indian
Penal Code and Sections 8/20(b)(ii)(c) of the N.D.P.S. Act.

The case relates to recovery of 154 Kg. of *Ganja*.

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 a
bare perusal of the F.I.R. as well as seizure list that altogether
154 Kgs. of *Ganja* was recovered from the vehicle in question
and the petitioner is the driver of the vehicle in question. He
further submits that the petitioner has no concern at all with the



alleged recovery of contraband. The petitioner is in custody since 29.11.2022.

Learned Additional Public Prosecutor, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is more than the commercial quantity as well as the F.S.L. report also confirms that the recovered contraband is Ganja and hence there is embargo under Section 37 of the N.D.P.S. Act.

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.

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.



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.

Hence, I am not inclined to enlarge the petitioner on bail in connection with Riga P.S. Case No. 530 of 2022, pending in the Court of learned Sessions Judge-cum-Special Judge, Sitamarhi.

Prayer is refused.

(Rajesh Kumar Verma, J)

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