

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45012 of 2023

Arising Out of PS. Case No.-129 Year-2021 Thana- MANJHAGARH District- Gopalganj

Angoor Miyan @ Manullah Angoor @ Manullah @ Angur son of Khush
Mahmad @ Khush Mohammad Village- Chaurav Ps- Nagar Dist- Gopalganj

... .. Petitioner/s

Versus

1. The Union of India through the Director, NDPS, Bihar
2. The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Pradhan, Advocate
For the UOI	:	Mr. K.N. Singh (A.S.G.)

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-09-2023 Heard learned counsel for the petitioner, learned
counsel for the Union of India as well as learned APP for the
State.

2. Petitioner seeks bail, who is in custody since
07.05.2021 in connection with Trial No.27 of 2021, arising out
of Majhagadh P.S. Case No. 129 of 2021, F.I.R. dated
06.05.2021 for the offences punishable under Sections 399, 402,
412, 414 of the Indian Penal Code, Section 25(1-b)a, 26, 35 of
the Arms Act and Sections 20(b)/II(C), 25/29 of the N.D.P.S.
Act.

3. The case relates to recovery of total 2 kg. *Charas*
from two motorcycles and one loaded country made pistol as
well as one mobile phone from the possession of the petitioner.



4. Learned counsel for the petitioner submits that petitioner is innocent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that nothing incriminating article/contraband is recovered from the conscious possession of the petitioner rather one country made loaded pistol one mobile phone and 02 Kg. of Charas have been recovered from the two motorcycles in question. He further submits that the petitioner has no concern with the alleged recovery.

5. Learned APP for the State, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is commercial quantity and apart from the aforesaid, the petitioner carries four criminal antecedents other than the present one and bail application of co-accused persons namely, Bhardwaj Prasad @ Jagmohan, Rahul Singh @ Chhotu Singh, Santosh Yadav and Radhey Shyam Yadav have been rejected by a co-ordinate Bench of this Hon'ble Court vide orders dated 28.11.2022, 20.06.2022, 17.05.2022 and 22.08.2022 passed in Cr. Misc. No.47588 of 2021, Cr. Misc. No.48795 of 2021, Cr. Misc. No.413 of 2022 and Cr. Misc. No.7891 of 2022 respectively.

6. As per Narcotic Drugs and Psychotropic Substances



Act, 1985, commercial quantity of Charas is more than 1000 grams and the small quantity of Charas is less than 100 grams but the recovery in the present case is of 2 kg. of Charas which is more than the commercial quantity.

7. 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.

8. 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*.

9. The recovery of commercial quantity of *Charas* from the possession of the petitioner would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

10. In view of the facts aforesaid facts and circum-



stances, I am not inclined to grant the privilege of bail to the pe-
titioner in connection with Trial No.27 of 2021 arising out of
Majhagadh P.S. Case No.129 of 2021 pending in the court of
learned Special Judge, N.D.P.S., Gopalganj.

11. Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

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