

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40005 of 2022

Arising Out of PS. Case No.-92 Year-2021 Thana- BHANGHA District- West Champaran

NAKCHHED SAH S/o Satyadev Sah R/o village- Singhpur, P.S.- Sathi,
District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.N.K. Agrawal, Sr. Adv.
	:	Mr.Jyoti Ranjan Jha, Adv.
	:	Mr.Kumar Rajdeep, Adv.
For the Opposite Party/s	:	Mr.Rajesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 25-01-2023 Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks bail in connection with Bhangaha P.S. Case 92/2021, registered for the offence punishable under Sections 20/22/23/24/27 of the N.D.P.S. Act.

As per prosecution case, there is alleged recovery of total 35 K.G. of Ganja from the motorcycle of the petitioner and petitioner apprehended on the spot.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is languishing in custody since 27.12.2021 and bears no criminal antecedent. Nothing has been recovered from the



possession of the petitioner. The mandatory provision of search and seizure under Section 50 of the N.D.P.S. Act has not been followed.

The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner and submits that 35 K.G. of Ganja was recovered from the possession of the petitioner which is more than commercial quantity.

As per Narcotic Drugs and Psychotropic Substances Act, 1985, commercial quantity of Ganja is 20 K.G. and the small quantity of Ganja is 1000 gm. but the recovery in the present case is of 35 K.G. Ganja which is more than the commercial quantity.

The grant of bail in N.D.P.S. cases where the recovery of commercial quantity of Narcotic is alleged is circumscribed under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, 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**.

The F.S.L. report dated 04.06.2022 also confirms that the substance is Ganja. The recovery of commercial quantity of



Ganja 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.

Considering the facts and circumstances of the case, nature of allegation levelled against the petitioner coupled with F.S.L. report and also taking into consideration material available on record, I am not inclined to grant bail to the petitioner. Hence, prayer for bail of the petitioner stands rejected.

However, the trial court is directed to expedite the trial and conclude the same as early as possible.

(Alok Kumar Pandey, J)

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