

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49445 of 2023

Arising Out of PS. Case No.-304 Year-2020 Thana- DHANAHHA District- West Champaran

ADHAR YADAV @ GULTANI YADAV S/O SADHU YADAV R/O Village-
Rupahi, P.S- Bhitaha, Distt.- West Champaran.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Anant Kumar Mishra, Advocate

For the Opposite Party/s : Mr.Braj Kishore Pd., APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 21-08-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
25.02.2023 in connection with Dhanaha P.S. Case No. 304 of
2020 registered for the offence punishable under Sections
20(B),ii, (C) and 22 of N.D.P.S. Act.

3. Recovery is of 34 Kg 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. Further submits that from a bare
perusal of the FIR as well as the seizure list that altogether 34
Kg of Ganja has been recovered from the Bus and the name of
the petitioner has been transpired on the basis of the
confessional statement of apprehended co-accused person,



namely, Manoj Yadav and as per allegation in the FIR the petitioner was escaped from the place of occurrence and co-accused has confessed that the petitioner was also indulged in the crime in question alongwith co-accused person and the co-accused person, namely, Manoj Yadav, who disclosed the name of the petitioner and altogether 34 Kg of Ganja has been recovered, has been granted bail by a Coordinate Bench of this Hon'ble Court vide order dated 17.08.2022 passed in Cr. Misc.No.25346 of 2022.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that altogether 34 Kg of Ganja has been recovered and the same is under the purview of commercial quantity so there is embargo under Section 37 of the N.D.P.S.Act to enlarge the petitioner on bail.

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 Ganja 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. Considering the aforesaid facts, I am not inclined to enlarge the petitioner on bail in connection with Dhanaha P.S. Case No. 304 of 2020 pending in the court of learned Chief Judicial Magistrate, Bettiah, West Champaran.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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