

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47700 of 2023

Arising Out of PS. Case No.-118 Year-2022 Thana- PIRPAINTI District- Bhagalpur

Md. Firoj Son Of Sekh Rustam R/O Village Govindpur, P.S. Pirpanti,
District Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate

For the Opposite Party/s : Mr. Nityanand, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 05-09-2023 Heard learned counsel for the petitioner learned APP
for the State.

2. Petitioner seeks bail who is in custody since 10.04.2023 in connection with Pirpainty P.S. Case No. 118 of 2022 for the offences punishable under Sections 399, 402/34 of the Indian Penal Code, Sections 8, 20(b)(ii)(c), 22 of the N.D.P.S. Act.

3. The case relates to recovery of 83 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. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather recovery has been made from the Nalanuma ditch near a



bamboo orchard. He further submits that merely on the basis of the information received from the spy the petitioner has been falsely implicated in the present case and the petitioner has no concern with the alleged recovery of the contraband. The petitioner is in custody since 10.04.2023.

5. 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, 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 Pirpainty P.S. Case No. 118 of 2022, pending in the Court of learned Sessions Judge, Bhagalpur.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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