

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47799 of 2022

Arising Out of PS. Case No.-21 Year-2019 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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SAURABH KUMAR GUPTA Son of Umashankar Prasad Resident of Village
- Ward No.12, Patti, PO.- and P.S.- Patahi, Bokanekalan, Distt.- East
Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Narcotic Contorl Bureau Patna Zonal Unit Patna, 800014. Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Vishal Kumar Singh, Adv.
For the Opposite Party/s	:	Mr.Ram Sumiran Rai, APP
For the UOI	:	Mr. Radhika Raman, CGC

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 08-02-2023 Heard learned counsel for the petitioner and the

learned counsel appearing for the Union of India.

The petitioner seeks bail in a case registered for
the offence under Sections 8(c), 20(b)(ii)(c) and 29 of the
N.D.P.S. Act.

Recovery is of 50 Kgs. of Ganja.

It appears from the record that earlier the prayer
for bail of this petitioner has been rejected vide order dated
16.06.2020 passed in Cr. Misc. No. 13978 of 2020 by a co-
ordinate Bench of this Court. This is the second time the
petitioner has renewed his prayer for grant of bail.

Learned counsel for the petitioner submits that the



petitioner has been languishing in judicial custody since 25.10.2019 i.e. more than three years. He further submits that nothing has been recovered from the conscious possession of the petitioner rather the alleged recovery has been made from the car in question. He further submits that the petitioner has no concern with the alleged recovery of ganja. He also submits that the petitioner is not involved in illegal dealing of Ganja.

Learned counsel for the petitioner further relied upon the judgment of Hon'ble Apex Court rendered in the case of ***Toofan Singh Vs. State of Tamilnadu*** reported in ***2021 (4) SCC 2.***

Learned counsel appearing for the Union of India has, vehemently, opposed the prayer for bail of this petitioner and submits that a huge quantity to the extent of 50 Kgs. of ganja falling within the purview of commercial quantity has been recovered from the possession of the petitioner. He also submits that since the recovered quantity comes under the purview of commercial quantity, the petitioner seems to be engaged in dealing with the contraband substance like ganja. The the chemical examination report of CRCL, Kolkata has confirmed the



content of the sample positive test for Ganja. He further submits that the petitioner carries one more case other than the present one. Hence, the petitioner does not deserve to be enlarged on bail.

Since the quantum of recovery of ganja in this case falls within the purview of commercial quantity, which is defined as 20 Kgs., this Court intends to refer Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, which clearly depicts that the grant of bail in N.D.P.S. cases, where the recovery of commercial quantity of narcotic is alleged, is circumscribed. Section 37 says that for granting bail, the Court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences for which he has been charged, and further he is not likely to commit any offence while on bail.

This issue has also been 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.***

In view of the aforesaid reference and the facts of the case, this court is of the view that the recovery of more than commercial quantity of ganja from the car in which the



petitioner was co-passenger, confirming the same by the F.S.L. report, would not justify that the petitioner had no knowledge of ganja kept in the car or he was not involved in commission of such offence and also there is no material available to substantiate that the petitioner would not commit such offence in the event of release. Therefore, considering the quantum of recovery of ganja as well as the mandate of Section 37, this Court is not inclined to enlarge the petitioner on bail at this stage. Accordingly, the prayer for grant of bail to the petitioner is rejected.

However, learned trial court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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