

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.29361 of 2022**

Arising Out of PS. Case No.-8 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.  
District- Aurangabad

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Nitish Kumar Son of Sri Surendra Singh Resident of Village - Usri Khaira,  
P.s.- Mehandia, Distt.- Arwal (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Union of India thorough Zonal Director, N.C.B., Patna.

... .. Opposite Party/s

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with

**CRIMINAL MISCELLANEOUS No. 51449 of 2022**

Arising Out of PS. Case No.-8 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.  
District- Aurangabad

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Manoj Kumar @ Manoj Singh Son Of Late Bindeshwari Singh Resident Of  
Village- Bhikhanpur Dhewai, P.O.- Injore, P.S.- Mehendiya, District- Arwal  
(bihar)

... .. Petitioner/s

Versus

1. The Union Of India Through Director, Narcotics Control Bureau, Patna  
Bihar
2. The State of Bihar

... .. Opposite Party/s

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with

**CRIMINAL MISCELLANEOUS No. 60987 of 2022**

Arising Out of PS. Case No.-8 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.  
District- Aurangabad

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Birendra Paswan Son of Late Rajendra Prasad @ Rajendra Paswan Resident  
of Village - Hardiya, P.S.- Mehendiya in the district of Arwal.

... .. Petitioner/s

Versus

1. The Union of India through the Director, Narcotics Control Bureau, Bihar,  
Patna. Government of Bihar
2. The Director, Narcotics Control Bureau, Bihar, Patna. Bihar

... .. Opposite Party/s

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**Appearance :**

(In CRIMINAL MISCELLANEOUS No. 29361 of 2022)



For the Petitioner/s : Mr. Anil Kumar, Advocate  
For the Union Of India : Mrs. Renuka Sharma  
Mr. Ankit Kumar Singh, Advocates  
For the Opposite Party/s : Mrs. Nirmala Kumari, APP  
(In CRIMINAL MISCELLANEOUS No. 51449 of 2022)  
For the Petitioner/s : Mr. Rakesh Kumar, Advocate  
For the State : Mr. Bhanu Pratap Singh, APP  
For the Union of India : Mr. Ram Anurag Singh, CGC  
(In CRIMINAL MISCELLANEOUS No. 60987 of 2022)  
For the Petitioner/s : Mr. Sunil Kumar, Advocates  
For the Union of India : Smt. Renuka Sharma  
Mr. Rajni Kant Singh, Advocates

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

9      14-03-2023                      Heard learned counsel for the petitioners, learned  
counsel appearing on behalf of the Union of India and learned  
APP for the State.

Petitioners seek bail in a case registered for the  
offences punishable under Sections 08(c), 20(b)(ii)(c), 25 and  
29 of the N.D.P.S. Act.

Recovery is of 198 Kgs. of *Ganja*.

Learned counsel for the petitioners submits that the  
petitioners have clean antecedents and they have been falsely  
implicated in the present case. He further submits that it appears  
from the F.I.R. as well as seizure list that 198 Kgs. of *Ganja*  
have been recovered from a truck in question. He further  
submits that on the basis of the disclosure made by co-accused  
person the name of the other co-accused persons have been  
surfaced in the present occurrence. Learned counsel for the  
petitioners further submits that the petitioner namely Nitish



Kumar is the driver and the petitioner namely Birendra Paswan is the Khalasi (co-driver) of the truck and they have no concern at all with the alleged recovery of the contraband and except the disclosure of the co-accused persons, the petitioner namely Manoj Kumar is not associated anywhere in the present occurrence. He further submits that the prosecution agency has recorded the voluntary statement of accused person namely Nitish Kumar under Section 67 of the NDPS Act 1985 on 12.03.2022 and he disclosed that the associate of seized drugs as one Manoj Kumar @ Manoj Singh (who is petitioner in Cr. Misc. No. 51449 of 2022). A notice under Section 67 of the NDPS Act was issued to Manoj Singh. He voluntarily confessed his involvement in trafficking of seized *Ganja*. On the basis of confessional statement and concrete evidences like CDR linkages among supplier, carrier and bank transactions received from receiver in his account and involvement in illicit trafficking of seized 198 Kgs. of *Ganja*, the aforesaid accused Manoj Kumar @ Manoj Singh was arrested on 04.05.2022.

Learned counsel for the petitioners submits that Section 50 of the NDPS Act has not been followed in the present case.

Learned counsel appearing on behalf of the Union of



India and the learned APP for the State, on the other hand, have vehemently opposed the prayer for bail of the petitioner and submits that FSL report also confirms that the recovered contraband is *Ganja*.

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 petitioners have not committed the offence and in the event of release they 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 & 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**.

The recovery of huge quantity of *Ganja* from the truck in question and voluntary statement of petitioners recorded under Section 67 of the N.D.P.S. Act, which suggest involvement of the petitioners would not justify that the petitioners had no knowledge of the narcotic nor there is any material to substantiate that the petitioners would not commit



such offence in the event of release.

Hence, I am not inclined to enlarge the petitioners on bail in connection with N.C.B. Crime Number- 08 of 2022 arising out of NDPS Case No. 11 of 2022 pending in the Court of learned 1<sup>st</sup> Additional District & Sessions Judge cum-Special Judge (N.D.P.S.), Aurangabad.

Prayer is refused.

**(Rajesh Kumar Verma, J)**

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