

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55341 of 2023

Arising Out of PS. Case No.-41 Year-2023 Thana- BHANGHA District- West Champaran

Dambar Shreshtha Son Of Late Chandrabahadur Shreshtha Resident Of
Village- Vijay Basti P.S Vijaybasti District Parsa, Nepal

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Advocate

For the Opposite Party/s : Mr.Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-09-2023 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
21.05.2023 in connection with Bhangaha P.S. Case No. 41 of
2023 registered for the offence punishable under Sections 20(b)
(ii)(c)/29 of N.D.P.S. Act.

3. Recovery is of 22.200 Kg of Ganja.

4. Learned counsel for the petitioner submits that the
petitioner 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 22 Kg 200 Gms of Ganja like substance
including weight of plastic bag has been recovered from
possession of the petitioner. Learned counsel for the petitioner
submits that there is non-compliance of Sections 42 and 50 of



the N.D.P.S.Act and the police, after investigation, submitted chargesheet against the petitioner.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is Ganja and the same is more than the commercial quantity so there is embargo under Section 37 of the NDPS Act to enlarge the petitioner on bail and apart from the aforesaid the petitioner carries one more case other than the present one, but fairly submits that the petitioner is on bail in the said case, as mentioned in para-3 of the bail petition.

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 from possession of the petitioner 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 Bhangaha P.S. Case No. 41 of 2023 pending in the court of learned Sessions Judge, Bettiah, West Champaran.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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