

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42963 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Bhojpur

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Jay Prakash Singh Son of Late Ram Pravesh Singh Resident of Village -
Mahkanpur, P.s.- Koilwar in the distt. of Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India Through the Director, Narcotics control Bureau, Bihar,
Patna. Govt. of Indai.
2. The Director, Narcotics Control Bureau, Bihar, Patna. Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 57615 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Bhojpur

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Ajeet Kumar Singh @ Ajit Kumar Singh Son of Chandrakanta Singh @
Chandra Kant Singh R/o Village - Mahakampur, Post - Bishanpura Dumaria,
P.S.- Koilwar, District - Bhojpur, Ara

... .. Petitioner/s

Versus

1. The State of Bihar
2. Narcotics Control Bureau through the Intelligence Officer, Zonal Unit, Patna
Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 64128 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Bhojpur

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Deepak Kumar Son of Dev Das Ram R/V- Basti More, Lashkariganj, PS-
Sasaram Town, Dist- Sasaram

... .. Petitioner/s

Versus

The Union of India through Zonal Director, NCB, Patna Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 42963 of 2022)



For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the U.O.I. : Ms. Shail Kumari, CGC
Mr. Uma Shankar Verma, SCGC
(In CRIMINAL MISCELLANEOUS No. 57615 of 2022)
For the Petitioner/s : Mr. Harsh Singh, Advocate
For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP
For the NCB : Mr. Ram Anurag Singh, CGC
(In CRIMINAL MISCELLANEOUS No. 64128 of 2022)
For the Petitioner/s : Mr. Krishna Prasad Singh, Sr. Advocate
Mr. Vipin Kumar, Advocate
For the U.O.I. : Mr. T.N. Thakur, CGC

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

8 11-04-2023 Heard learned counsel for the petitioners, learned Central Government Counsel as well as learned counsel for Union of India (NCB).

Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Petitioners seek bail where petitioner no. 1, namely, Jay Prakash Singh is in custody since 17.01.2022, petitioner no. 2, namely, Ajeet Kumar Singh @ Ajit Kumar is in custody since 23.03.2022 and the petitioner no. 3, namely, Deepak Kumar is in custody since 18.06.2022 in connection with N.D.P.S (SL) Case No. 04 of 2022 (arising out of NCB Case No. 02 of 2022) for the offences punishable under Sections 21(c), 22(c) and 29 of the N.D.P.S. Act.

Recovery is of 2 kg of Alprazolam from the bag of the petitioner, namely, Jay Prakash Singh.



Learned counsel for the petitioners submits that petitioner no. 1, namely, Jay Prakash Singh has clean antecedent, petitioner no. 2, namely, Ajeet Kumar Singh @ Ajit Kumar carries 4 cases where 2 cases are of NDPS and petitioner no. 3, namely, Deepak Kumar carries one case which is NDPS case. He further submits that the petitioners have falsely been implicated in the present case. He further submits that it appears from the F.I.R. that the petitioner, namely, Jay Prakash Singh was apprehended and in presence of the witnesses, 2 kg of Alprazolam was recovered and the apprehended person (Jay Prakash Singh) disclosed that he was coming with the said contraband from Deepak Kumar of Sasaram. He further submits that there is non-compliance of Sections 42, 43 and 50 of the NDPS Act and without the F.S.L. report, the petitioners were implicated in the present case.

Learned counsel for the Union of India submits that the petitioner, namely, Jay Prakash Singh was caught red handed while carrying 2 kg of Alprazolam in his black color bag. Thereafter, the JIO (Seizing Officer) issue notice under Section 67 of the NDPS Act, 1985 to the petitioner (Jay Prakash Singh) in the presence of the independent witnesses, namely, Vimal Kumar and Rakesh Kumar, directing to appear in NCB, Patna



office. He tendered his voluntary statement in which petitioner (Jay Prakash Singh) has confessed his involvement and illicit trafficking of Alprazolam which was seized by NCB Patna on 16.01.2022. Further, the petitioner (Jay Prakash Singh) stated that, Ajit Kumar Singh and Ranjit Kumar sent him to Sasaram on 16.01.2022 to purchase and bring 2 kg of Alprazolam from Deepak Kumar of Sasaram. He further reveals that his mobile no. is 8521647374, Anil's mobile no. is 7255038759, Ajit Kumar Singh's mobile no. is 7070979419 and 9905858462 and Deepak's mobile no. is 7766004736 and 8539010614. On analysis of CDRs of the mobile numbers as was mentioned in the statement of the petitioner (Jay Prakash Singh) and also obtained from the co-accused persons namely, Ajit Kumar Singh and Deepak Kumar who were arrested during investigation, it is found that the Jay Prakash Singh's mobile no. 8521647374 has CDR linkage with co-accused Ajit Kumar Singh (mobile no. 7070979419) having 261 in-out calls in between each other. Further, the petitioner (Jay Prakash Singh) has CDR linkage with co-accused Ajit Kumar Singh (mobile no. 9905858462) having 119 in-out calls in between each other. Further, the petitioner (Jay Prakash Singh) has CDR linkage with co-accused Ranjit Singh @ Anil Singh (mobile no. 9525114623) having 28



in-out calls in between each other. Further, the petitioner (Jay Prakash Singh) has CDR linkage with co-accused Deepak Kumar (mobile no. 8539010614) having 24 in-out calls in between each other and has linkage with Deepak's other no. (mobile no. 7766004736) where there is 18 in-out calls in between each other. It is further stated that the CDR reveals that the co-accused persons namely, Ajit Kumar Singh and Deepak Kumar has CDR linkages between having 134 in-out calls in between each other.

Learned counsel for the Union of India further submits that the contraband Alprazolam is a Psychotropic substance and is covered under NDPS Act as defined in clause XXIII of Section 2 of NDPS Act, 1985. As per the notification No. S.O.1055 (E) dated 19.10.2001 issued by the Central Government regarding small quantity and commercial quantity, 100 gms and more quantity of Alprazolam is considered to be commercial quantity. Here in the present case, seized quantity of Alprazolam is 2 kg i.e., more than 20 times of the commercial quantity of seized Alprazolam. He further submits that the chemical examination report of the seized drugs has been received from CRCL Kolkata mentioning positive test report of the seized drugs to be Alprazolam.



Considering the aforesaid facts and the analysis of CDR as well as the recovered contraband is *Alprazolam* and the quantity of the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

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 petitioners have not committed the offence and in the event of release he 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 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.

The recovery of huge quantity of Alprazolam recovered 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 NDPS (SL) Case No. 04 of 2022 arising out of NCB Case No. 02 of 2022 pending in the Court of learned Sessions Judge, Bhojpur, Ara.

Prayer is refused.

(Rajesh Kumar Verma, J)

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