

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56665 of 2022

Arising Out of PS. Case No.-256 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Vijay Gaurh @ Vijay Gaunrh @ Vijay Gond S/O Baban Gond Resident Of-
Narahi, P.S.- Narahi, District- Balia, Up, 277502.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Mishra, Advocate
For the Opposite Party/s : Mr. Kanhaiya Kishore, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 01-05-2023 Heard learned counsel for the petitioner learned APP
for the State.

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

Petitioner seeks bail who is in custody since
08.05.2022 in connection with Excise Case No. 256 of 2022 for
the offences punishable under Sections 8, 20(b) (ii) and 2(c) of
the N.D.P.S. Act, 1985.

Recovery is of 200 kg of Ganja.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that as per the



allegation in the F.I.R. altogether 200 kg of Ganja has been recovered from the truck in question. He further submits that nothing has been recovered from the conscious possession of the petitioner and the petitioner has no concern at all with the alleged recovery of the contraband or the truck in question. He further submits that there is non-compliance of Section 42 and 50 of the NDPS Act. He further submits that without the F.S.L. report, the petitioner has been implicated in this case.

Learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Ganja and 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 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.

Hence, I am not inclined to enlarge the petitioner on bail in connection with Excise Case No. 256 of 2022 pending in the Court of learned Sessions Judge cum Special Judge (NDPS Act), Gaya.

Prayer is refused.

(Rajesh Kumar Verma, J)

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