

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59746 of 2022

Arising Out of PS. Case No.-3 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

RAMAKANT KUMAR @ MUNNA KUMAR Son of Late Sahdev Singh
R/V- Govindpur Gokhula, P.S- Biddupur, Dist- Vaishali

... .. Petitioner/s

Versus

The Union of India through NCB, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kr. Thakur, Advocate
	:	Ms. Vaishnavi Singh, Advocate
For the Opposite Party/s	:	Mr.Dr. Krishna Nandan Singh (A.S.G.)
For U.O.I.	:	Mr. Ravinder Kr. Sharma (C.G.C.)
	:	Mr. Lokesh, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 02-02-2023 Heard the learned counsel for the petitioner and
the learned APP for the State.

The petitioner seeks regular bail in connection
with Special case no. 177 of 2022 arising out of
NCB/PZU/V/03/2021 instituted for the offences punishable
under Sections 8(c), 20(b)(ii)(c), 25, 29 of N.D.P.S. Act, 1985

The allegation is regarding the sleuths of
Narcotic Control Bureau having apprehended co-accused
persons namely Deepak Kumar and Chunnu Kumar while
they were travelling in a Maruti Ciaz vehicle and upon search,
96 kg *ganja* was recovered. It is further alleged that upon
interrogation, the apprehended co-accused person namely



Deepak revealed that the owner of the seized *ganja* is the petitioner herein and one Ranbir Kumar.

The learned counsel for the petitioner submits that the petitioner is innocent, has been falsely implicated in the present case, he is having a clean antecedent and is languishing in custody since 19.11.2021. The learned counsel for the petitioner has further submitted that *ganja* has not been seized either from the possession of the petitioner or from his house and he has been falsely roped in the present case merely upon the confessional statement/ disclosure made by the co-accused person Deepak Kumar and Chandan Kumar, which has got no evidentiary value in the eyes of law. Lastly, it is submitted that neither the Maruti Ciaz car belongs to the petitioner nor the petitioner has got any connection with the arrested co-accused persons, hence, the petitioner has got no complicity in the matter.

Per contra, the learned counsel for the N.C.B. has vehemently opposed the prayer for bail and has though not denied the fact that no *ganja* has been recovered from the petitioner, however, it has been stated that the quantity of *ganja* seized is much more than the commercial quantity specified in the Schedule notified under the provisions of the



N.D.P.S. Act, 1985, hence, the stringent provision of Section 37 of the N.D.P.S. Act, 1985 shall come into play, thus the petitioner is not entitled to the privilege of bail. The learned counsel has also referred to certain judgments which have been rendered by the Hon'ble Apex Court, one of such judgment being the one rendered in the case of ***Narcotics Control Bureau v. Mohit Aggarwal dated 19.07.2022***, passed in ***S.L.P. (Crl.) No. 6128-29 of 2021***, reported in ***2022 SCC Online SC 891***.

At this juncture, the learned counsel for the petitioner has submitted that paragraph no. 15 of the aforesaid judgment rendered by the Hon'ble Apex Court in the case of ***Mohit Aggarwal (supra)*** in fact, helps the petitioner, wherein it has been postulated as follows :-

“15. We may clarify that at the stage of examining an application for bail in the context of the Section 37 of the Act, the Court is not required to record a finding that the accused person is not guilty. The Court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to



undertake at this stage is for the limited purpose of releasing him on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that he has been charged with and he is unlikely to commit an offence under the Act while on bail.”

It is also submitted by the learned counsel for the petitioner that the reliance of the learned counsel for N.C.B. on the judgment rendered by the Hon’ble Apex Court in ***Mohit Agarwal (supra)*** is misplaced, in view of the fact that stringent provisions of Section 37 of N.D.P.S. Act, 1985 are only applicable, in cases, where the quantity of narcotic substance recovered from the accused person is much more than the commercial quantity specified in the Schedule notified under the provisions of the N.D.P.S. Act, 1985 but in the present case, as far as the petitioner is concerned, neither any narcotic substance nor any ganja has been recovered from him.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties and taking into account the materials available on record, this Court finds that first of all, there is no



recovery of *ganja* either from the conscious possession of the petitioner or from his house apart from the fact that he is having a clean antecedent and is languishing in custody since 19.11.2021 and secondly there is minuscule evidence available on record to connect the petitioner with the alleged occurrence, hence, I deem it fit and appropriate to admit the petitioner to the privilege of bail.

Accordingly, the abovenamed petitioner is directed to be released on regular bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of learned court of Additional Sessions Judge-XVIII, Patna-cum-Special Judge, N.D.P.S. Act in connection with Special case no. 177 of 2022 arising out of NCB/PZU/V/03/2021.

(Mohit Kumar Shah, J)

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