

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57376 of 2022

Arising Out of PS. Case No.-154 Year-2020 Thana- UDWANTNAGAR District- Bhojpur

Track Yadav @ Truck Yadav @ Tarak Yadav @ Harishankar Yadav S/o
Demangal Yadav Resident of village- Masarh Dhibra, Police Station-
Udwantnagar in the district of Bhojpur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Opposite Party/s : Mr. Surendra Prasad Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-01-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor 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 in a case registered for the
offences punishable under Sections 8/20 (b)(ii)(c) of NDPS Act.

Earlier the bail petition of the petitioner was rejected
vide order dated 28.02.2022 passed in Cr. Misc. No. 33983 of
2021.

According to prosecution case, one S.I. received a
secret information that one Track Yadav @ Tarak Yadav @Hari
Shankar Yadav of village-Masarh has kept Ganja in his room.



He reached at the spot and raided the house of the petitioner and recovered 41 Kg. Ganja from the house of Track Yadav @ Tarak Yadav @ Hari Shankar Yadav and arrested him and seizure list was prepared.

Learned counsel appearing on behalf of the petitioner submits that petitioner has clean antecedent. He has falsely been implicated in the present case. He further submits that nothing has been recovered from the conscious possession of the petitioner and the recovery has been made from the house of the petitioner and Section 50 of the NDPS Act has not been followed in the present case. It appears from the FIR that 41 Kg. Ganja has been recovered from the house of the petitioner.

The grant of bail in the N.D.P.S cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs & Psychotropic Substances Act, 1985. Section 37 which says that before grant of bail the Court must have reason to believe that petitioner has not committed the offence and in the event of release he would not commit offence.

Vide order dated 02.11.2022 a report was called for with regard to the stage of trial. Report dated 29.11.2022 reveals that the trial is going on.



The issue has also been 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 the huge quantity of Ganja from the house of the petitioner would not justify that he had no knowledge of the narcotic kept in his house nor there is any material to substantiate that the petitioner could not commit such offence in the event of his release.

Hence, I am not inclined to enlarge the petitioner on bail in connection with NDPS Case No. 10 of 2020 (arising out of Udwant Nagar (Gajrajganj O.P.) Case No. 154 of 2020) pending in the Court of learned Sessions Judge, Bhojpur, Ara.

However, the learned trial court is directed to expedite the trial.

(Rajesh Kumar Verma, J)

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