

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61361 of 2022

Arising Out of PS. Case No.-305 Year-2022 Thana- UDWANTNAGAR District- Bhojpur

Ram Awatar @ Ram Ishwar Dhanuk Son of Late Khelari Dhanuk R/o-
Kurhwa Tola, Nawada ben, P.S.- Udwanthnagar O.P. (Gajrajganj). Dist-
Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Advocate

For the Opposite Party/s : Mr. Raj Kishor Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 19-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
07.07.2022 in connection with N.D.P.S. (SC) Case No. 34 of
2021 arising out of Udwant Nagar (Gajrajganj O.P.) P.S. Case
No. 305 of 2022, F.I.R. dated 06.07.2022 for the offences
punishable under Sections 20-B, 11-C, 29 of the N.D.P.S. Act.

Recovery is of total 23 kg. 320 gram Ganja from a old
hut that was built in a open field.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and has committed no offence
and he has falsely been implicated in the present case. He
further submits that it appears from the F.I.R. as well as seizure



list that all together 23.320 kg. Ganja was recovered from the Dalan of the petitioner. He further submits that nothing has been recovered from the conscious possession of the petitioner, rather the police has planted the same and shown the recovery from the Dalan of the petitioner and petitioner has no concern with the alleged recovery.

As per Narcotic Drugs and Psychotropic Substances Act, 1985, commercial quantity of Ganja is 20 kg. and the small quantity of Ganja is 500 gms. but the recovery in the present case is of 23.320 kg. Ganja which is more than the commercial quantity.

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 petitioner has not committed the offence and in the event of release he would not commit similar offence. 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 ***SLP (CRL) No. 2351 of 2023 (Union of India Vs. Ajay Kumar Singh @ Pappu)*** dated 28.03.2023.

The recovery of commercial quantity of Ganja from the possession of the petitioner would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

Considering the aforesaid facts and circumstances, I am not inclined to grant the privilege of bail to the petitioner in connection with N.D.P.S. (SC) Case No. 34 of 2021 arising out of Udwant Nagar (Gajrajganj O.P.) P.S. Case No. 305 of 2022 pending in the court of learned Sessions Judge, Bhojpur at Ara.

Accordingly, the same stands rejected.

(Rajesh Kumar Verma, J)

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