

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59675 of 2022

Arising Out of PS. Case No.-30 Year-2022 Thana- DURGAWATI District- Kaimur (Bhabua)

Ashok Sah @ Ashok Kumar S/o Sarwjit Sah @ Sarvjit Gupta R/o Vill- Dadar,
P.S.- Mohania, Distt- Kaimur at Bhabhua.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan, Advocate

For the Opposite Party/s : Mrs. Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 17-04-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail, who is in custody since
06.09.2022, in connection with N.D.P.S. Case No. 11 of 2022
arising out of Durgawati P.S. Case No. 30 of 2022, F.I.R. dated
18.02.2022 registered for the offences punishable under
Sections 8(C), 20(b)(ii)(c), 29, 27(A) of the N.D.P.S. Act.

Recovery is of 668.56 Kgs. of *Ganja*.

Learned counsel for the petitioner submits that the
petitioner is innocent and he has been falsely implicated in the
present case. He further submits that it appears from the F.I.R.
that nothing has been recovered from the conscious possession
of the petitioner rather recovery has been made from the Tata
Truck and altogether 668.56 Kgs. of *Ganja* has been recovered



from the Truck in question. Learned counsel for the petitioner further submits that the petitioner has no concern at all with the alleged recovery of the contraband as well as the Truck in question and the Truck was hired by one Dhiraj Kumar and the police after investigation submitted chargesheet against the petitioner and the petitioner is in custody since 06.09.2022.

Learned APP for the State, on the other hand, on the basis of the material available on the record and the case diary has vehemently opposed the prayer for bail of the petitioner and submits that FSL report confirms that the recovered contraband is *Ganja* and there is embargo under Section 37 of the N.D.P.S. Act. Further submits that the petitioner carries four more cases other than the present one but out of four cases, three cases related to N.D.P.S matter.

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.

The issue was 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 huge quantity of *Ganja* from the possession of the Truck 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.

Considering the aforesaid facts that there is recovery of commercial quantity of Ganja, I am not inclined to enlarge the petitioner on bail in connection with NDPS Case No. 11 of 2022 arising out of Durgawati P.S. Case No. 30 of 2022 pending in the Court of learned Sessions Judge-cum-Special Judge, Kaimur at Bhabhua.

Prayer is refused.

(Rajesh Kumar Verma, J)

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