

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59909 of 2022

Arising Out of PS. Case No.-57 Year-2021 Thana- AMAS District- Gaya

Govind Kumar Yadav Son Of Late Bajo Yadav R/O Village- Postiya, P.S.-
Jori, District- Chatra (JHARKHAND)

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate

For the Opposite Party/s : Mr. Anand Kishore Choudhary, 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.

Let the defects, as pointed out by the office, be
removed within a period of four weeks.

Petitioner seeks bail in a case registered for the
offences punishable under Sections 8/ 17(c), 18(c) of the
N.D.P.S. Act.

Earlier the bail petition of the petitioner was rejected
vide order dated 10.03.2022 passed in Cr. Misc. No. 46420 of
2021.

As per prosecution case, altogether 4.5 kg. opium has
been recovered and from the person of the petitioner Govind
Kumar Yadav, 2 kg opium has been recovered.

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 petitioner is in custody since 05.03.2021.

The learned Additional Public Prosecutor vehemently opposed the prayer of bail of the petitioner and submits that FSL report also confirms that recovered article is opium and the recovered quantity of opium is commercial quantity.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under the NDPS Act, 1985. Section 37 of the said Act says that before grant of bail, the Court must have reason to believe that the petitioner has not committed the offence and in the event of release, he would not commit similar offence in future.

Vide order dated 23.11.2022 a report was called with regard to the stage of trial. Report reveals that the case is pending on a stage of hearing of charge.

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.**

The recovery of huge quantity of opium would not justify



that the petitioner had no knowledge of the narcotic nor there is any material to substantiate that 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 Amas P.S. Case No. 57 of 2021 pending in the court of learned Additional Sessions Judge-1st, Gaya.

(Rajesh Kumar Verma, J)

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