

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62293 of 2022

Arising Out of PS. Case No.-293 Year-2022 Thana- SHERGHATI District- Gaya

DAVINDRA SINGH S/o Kuldeep Singh R/o House no. 675, Rajpur Road,
Guru Harsai Colony, Hira Bag, Distt- Patiala, Punjab.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Md. Javed Jafar Khan, Adv.

For the Opposite Party/s : Mr. Rajendra Nath Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 24-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
14.04.2022 in connection with Sherghati (Dobhi) P.S. Case No.
293/2022, F.I.R. dated 13.04.2022, for the offences punishable
under Sections 8/17(c)/18(c) of N.D.P.S. Act.

According to prosecution case, total 2.985 Kg of
opium (Afim) like substance, cash of Rs. 30.000/- and mobile
phone have been recovered from the Airbag of the petitioner.

Learned counsel for the petitioner submits that
petitioner has clean antecedent 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 on the basis of secret
report, the petitioner was arrested and 2.985 Kg of opium



(Afim) like substance, cash of Rs. 30.000/- and a mobile phone have been recovered from the possession of the petitioner and without F.S.L. report the police has falsely implicated the petitioner in the present case.

The learned Additional Public Prosecutor for the State on the other hand on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Morphine, which is more than the commercial quantity. He further submits that small quantity is 5 gm and commercial quantity is 250 gm.

Result of Examination:-

“Morphine and its alkaloids were detected in the contents of dark brown liquid substance kept in plastic as described above.”

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, 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 huge quantity of Morphine from possession of the petitioner 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. Hence, I am not inclined to enlarge the petitioner on bail in connection with Sherghati (Dobhi) P.S. Case No.293/2022, pending in the court of learned Sessions Judge-Special Judge, N.D.P.S. Act, Gaya.

Prayer is refused.

(Rajesh Kumar Verma, J)

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