

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63981 of 2022

Arising Out of PS. Case No.-66 Year-2022 Thana- FULKAHA District- Araria

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Dipchand Yadav @ Dipnarayan Yadav Son of Late Bechan Yadav R/V-
Bhawanipur, Ward No. 6, P.S- Fulkaha, Dist- Araria.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Opposite Party/s : Mr. Narendra Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
19.06.2022 in connection with Special Case No. 18 of 2022
arising out of Fulkaha P.S. Case No. 66 of 2022, F.I.R. dated
18.06.2022 for the offences punishable under Sections 8(c),
20(b), II(c), 29 of the N.D.P.S. Act.

Recovery is of total 102 Kgs. of Ganja.

Learned counsel for the petitioner submits that the
petitioner is innocent 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 nothing was recovered from the
conscious possession of the petitioner rather the recovery has
been made from the boarder in abandoned condition. He further
submits that the petitioner is only a courier boy and he has no



concern at all with the alleged recovery of contraband. He further submits that there is no compliance of Section 40, 52 of the N.D.P.S. Act.

Learned counsel for the Union of India has vehemently opposed the prayer for bail of the petitioner and submits that the commercial quantity of Ganja i.e. 102 Kg has been recovered from the boarder in abandoned condition and the F.S.L. report also confirms that the recovered contraband is Ganja, which is quoted herein below :-

“ Result of Examination

The dry, pressed, greenish brown flowering and fruiting vegetable substances, contained in all polythene packets (paper envelope) marked B1 to B99 as described above were found to be Ganja containing Tetra Hydro Connabinol (THC) as their chief intoxicating ingredient.

Ganja is the flowering and fruiting tops of the female plant of Cannabis sativa.”

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* in Cr. Appeal Nos.1001-1002 of 2022 arising out of Special Leave to Appeal (CRL.) No.6128-29 of 2021.

The recovery of huge quantity of Ganja 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.

Considering the aforesaid facts, I am not inclined to enlarge the petitioner on bail in connection with Special Case No. 18 of 2022 arising out of Fulkaha P.S. Case No. 66 of 2022 pending in the court of learned Sessions Judge, Araria.

Prayer is refused.

(Rajesh Kumar Verma, J)

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