

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.901 of 2022

Arising Out of PS. Case No.-171 Year-2021 Thana- BRAHMPURA District- Muzaffarpur

Dinesh Sahni S/o Kishori Sahni R/o village- Kolhua Paigamberpur (Dadar),
P.S.- Ahiyapur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate

For the Opposite Party/s : Mr. Umeshanand Pandit APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-02-2023 Learned counsel for the petitioner is permitted to remove the defects, as pointed out by the office, if any, within a period of four weeks from today.

Heard learned counsel for the petitioner and learned APP for the State.

Petitioner seeks bail in a case registered for the offences punishable under Sections 414 of the Indian Penal Code and Sections 8/20/22 of the N.D.P.S. Act.

Recovery is of 01 Kg. of *Charas*.

Learned counsel for the petitioner submits that the petitioner is innocent and he been falsely implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that 01 Kg. of *Charas* has been recovered from the possession of the petitioner. He further submits that



the petitioner is in custody since 30.06.2021.

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 *Charas* and there is embargo under Section 37 of the N.D.P.S. Act. Further submits that the petitioner carries one more case other than the present case.

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 *Charas* from the 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 Brahampura P.S. Case No. 171 of 2021 pending in the Court of learned Special Judge NDPS Act, Muzaffarpur.

Prayer is refused.

(Rajesh Kumar Verma, J)

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