

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66910 of 2023

Arising Out of PS. Case No.-92 Year-2021 Thana- BHANGHA District- West Champaran

Nakchhed Sah Son Of Satydev @ Satyadev Sah Resident Of Village-
Singhpur, Ps- Sathi, Distt- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Bimlesh Kumar Pandey, Adv.

For the Opposite Party/s : Mr.Akbar Ali, APP.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 03-11-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Bhangaha P.S. Case 92/2021, registered for the offence punishable
under Sections 20/22/23/24/27 of the N.D.P.S. Act.

3. As per prosecution case, there is alleged recovery of
total 35 K.G. of Ganja from the motorcycle of the petitioner and
petitioner was apprehended on the spot.

4. Learned counsel for the petitioner submits that the
bail prayer of the present petitioner has already been rejected on
merit by this Court vide Cr. Misc No. 40005/ 2022 on 25.01.2023.
Petitioner is innocent and has falsely been implicated in this case.
The petitioner is languishing in custody since 28.12.2021 which is
near about two years and bears no criminal antecedent. Nothing



has been recovered from the possession of the petitioner. The mandatory provision of search and seizure under Section 50 of the N.D.P.S. Act has not been followed.

5. The learned A.P.P. for the State vehemently opposed the prayer for bail of the petitioner and submits that 35 K.G. of Ganja was recovered from the possession of the petitioner which is more than commercial quantity. He further submits that the bail prayer of the present petitioner has already been rejected on merit by this Court vide Cr. Misc No. 40005/ 2022 on 25.01.2023.

6. As per Narcotic Drugs and Psychotropic Substances Act, 1985, commercial quantity of Ganja is 20 K.G. and the small quantity of Ganja is 1000 gm. but the recovery in the present case is of 35 K.G. Ganja which is more than the commercial quantity.

7. The grant of bail in N.D.P.S. cases where the recovery of commercial quantity of Narcotic is alleged is circumscribed under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, 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.

8. 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**.



9. The F.S.L. report dated 04.06.2022 also confirms that the substance is Ganja. The recovery of commercial quantity of Ganja from the possession of the petitioner would not justify that the petitioner had no knowledge of narcotic nor there is any material to substantiate that the petitioner would not commit such offence in the event of release.

10. A report regarding the stage of trial has been sought by this Court and in pursuance of the said direction, the trial Court vide letter no. 638/2023 has sent its report which reveals that charge has been framed on 04.08.2022 and thereafter four prosecution witnesses have been examined in this case and prosecution evidence has been closed on 07.08.2023. It further reflects that next date is fixed on 01.11.2023 for recording of a statement of accused under Section 313 of Cr.P.C.

11. Considering the facts and circumstances of the case, particularly keeping in view that earlier bail prayer of the petitioner has been rejected on merit as well as report of the trial court, I am not inclined to grant bail to the petitioner. Accordingly, the prayer for bail of the petitioner is hereby rejected.

(Alok Kumar Pandey, J)

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