

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.64713 of 2022

Arising Out of PS. Case No.-441 Year-2019 Thana- UDWANTNAGAR District- Bhojpur

Vinod Singh @ Vinod Kumar Singh Son Of Sanjay Singh @ Sangam Singh
R/O Vill.- Karisath, P.S.- Udwant Nagar, Distt.- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr. Kalyan Shankar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 11-05-2023 Heard learned counsel for the petitioner learned APP
for the State.

Learned counsel for the petitioner is permitted to
remove the defect(s), as pointed out by the office, if any, within
a period of four weeks from today.

Petitioner seeks bail who is in custody since
20.08.2022 in connection with NDPS Case No. 10 of 2022
arising out of Udwantnagar P.S. Case No. 441 of 2019 for the
offences punishable under Sections 8, 20(b) (ii) (c) and 29 of the
N.D.P.S. Act, 1985.

Recovery is of 166 kg of Ganja.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case merely on the basis of suspicion.
He further submits that it appears from the F.I.R. as well as
seizure list that nothing has been recovered from the conscious
possession of the petitioner rather the recovery has been made



from the vehicle in question and the name of the petitioner has been transpired on the basis of the disclosure made by the co-accused person. He further submits that co-accused persons, namely, Dipak Kumar and Pradip Kumar Singh were apprehended along with Ganja. He further submits that the co-accused persons, namely, Dipak Kumar and Pradip Kumar Yadav and other accused persons have been granted bail by different Co-ordinate Benches of this Court.

Learned Additional Public Prosecutor on the basis of material available on record and case diary vehemently opposed the prayer for bail of the petitioner and submits that the petitioner carries one NDPS case and the F.S.L. report also confirms that the recovered contraband is Ganja and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act. He further submits that it has come during investigation that the petitioner was actively involved in the present occurrence.

The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substance 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 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** and **Union of India vs. Ajay Kumar Singh @ Pappu** reported in **2023 SCC OnLine SC 3456** dated 28.03.2023.

The recovery of huge quantity of Ganja recovered 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 NDPS Case No. 10 of 2022 arising out of Udwantnagar P.S. Case No. 441 of 2019 pending in the Court of learned Additional District Judge-III, Bhojpur, Ara.

Prayer is refused.

(Rajesh Kumar Verma, J)

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