

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68298 of 2022**

Arising Out of PS. Case No.-27 Year-2022 Thana- BIRPUR District- Supaul

PAWAN KUMAR Son of Rajendra Kumar @ Rajendra Yadav @ RAGHU
YADAV R/V- Bhim Nagar, ward no. 13, P.S- Birpur (Bhim Nagar O.P) Dist-
Supaul, State- Bihar- 854338

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kuldeep Kumar, Adv.

For the Opposite Party/s : Mr. Satyendra Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

5 07-08-2023 1. Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

2. Petitioner, who is in custody since 09.02.2022 seeks bail, in connection with Birpur (Bhim Nagar O.P.) P.S. Case No.27/2022, corresponding to NDPS (Special) Case No. 06/2022, dated 08.02.2022, for the offences punishable under Sections 8, 20(b) (ii)(c), 22(c) of the N.D.P.S. Act, 1985.

3. According to prosecution case, altogether 111 kg. Ganja like substance has been recovered from the possession of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that from bare perusal of the F.I.R. as well as seizure list, it appears that altogether 111 kg. Of



ganja like substance has been recovered from the possession of the petitioner. He further submits that there is non-compliance of Section 42 and 50 of the N.D.P.S. Act.

5. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report also confirms that the recovered contraband is Ganja, which is more than the commercial quantity, so, there is embargo of section 37 of the N.D.P.S. Act.

6. 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.

7. 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.

8. 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. Hence, I am not inclined to enlarge the petitioner on bail in connection with Birpur (Bhim Nagar O.P.) P.S. Case No.27/2022, corresponding to NDPS (Special) Case No. 06/2022, pending in the court of learned Additional District and Sessions Judge-1st, Supaul.

9. Prayer is refused.

(Rajesh Kumar Verma, J)

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