

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69615 of 2022

Arising Out of PS. Case No.-144 Year-2022 Thana- SARSI District- Purnia

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DULARCHAND YADAV @ DULARCHANDRA YADAV S/o Upendra
Yadav R/v- Jiyanganj Madhya Tola, P.S.- Sarsi, District- Purnia

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Adv.
For the Opposite Party/s : Mr. Upendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 20-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
16.09.2022, in connection with Sarsi P.S. Case No. 144/2022,
F.I.R. dated 08.07.2022, for the offences punishable under
Sections 8(c)/20 (b) (ii) (c)/21 (b)/25 of the N.D.P.S. Act.

According to prosecution case, total 64.040 Kg of
ganja and 28 bottles of 100 ML total 208 litres of Codeine Syrup
and some other articles have been recovered from the Scorpio
vehicle in question.

Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that it appears



from the F.I.R. and the seizure list that nothing has been recovered from conscious possession of the petitioner rather the recovery has been made from a Scorpio vehicle and there is non-compliance of Section 100 of the Cr.P.C.

The 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.

Result of examination:-

“The dry, pressed, greenish brown, flowering and fruiting vegetable substances contained in the paper envelopes as described above were found to be GANJA containing Tetra Hydro Cannabinol (T.H.C.) as their chief intoxicating ingredient.”

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**, **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.

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 Sarsi P.S.Case No.144 of 2022 pending in the court of learned Special Judge, N.D.P.S. Act, Purnea.

Prayer is refused.

(Rajesh Kumar Verma, J)

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