

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70781 of 2022

Arising Out of PS. Case No.-192 Year-2021 Thana- RAXAUL District- East Champaran

VIJAY PANDEY S/o Nagendra Pandey R/o Village- Koiriya Tola, P.S.-
Raxaul, Distt- East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma, Advocate
	:	Mr. Abhishek Kumar, Advocate
For the Opposite Party/s	:	Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 22-06-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seek bail, who is in custody since
01.06.2021 in connection with N.D.P.S. Case No.41 of 2021
arising out of Raxaul P.S. Case No. 192 of 2021, F.I.R. dated
31.05.2021 registered for the offence punishable under Sections
20(b)(ii)(c), 23(c) of N.D.P.S. Act.

Recovery is of 3 Kg of Charas.

Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. Further submits that from bare
perusal of the FIR it transpires that nothing has been recovered
from conscious possession of the petitioner rather the recovery



has been made from possession of co-accused, namely, Sugandhi Devi @ Sugani Devi and there is non-compliance of Sections 42 and 50 of the N.D.P.S.Act.

Learned APP for the State, 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 the F.S.L. report confirms that the recovered contraband is Charas and the same is more than the commercial quantity i.e. 03 Kg.

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 the 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** and recently decided the judgment in the case of **Union of India Vs. Ajay Kumar Singh @ Pappu**, reported in **2023 SCC OnLine SC 346**.



The recovery of huge quantity of Charas 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 N.D.P.S. Case No.41 of 2021 arising out of Raxaul P.S. Case No. 192 of 2021 pending in the court of learned 1st Additional Sessions Judge/ Special Judge, Motihari, East Champaran.

Prayer is refused.

(Rajesh Kumar Verma, J)

Nitesh/-

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