

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74086 of 2022**

Arising Out of PS. Case No.-215 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Ravi Kumar Son Of Shri Ram Singh R/O Village- Azad Nagar, P.S.- Jamuna
Nagar, District- Jamuna Nagar (HARYANA)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Singh, Advocate
For the Opposite Party/s : Mrs.Suman Kumari Singh, APP

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

5 24-07-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
06.04.2022 in connection with N.D.P.S. Case No.12 of 2022
arising out of Excise P.S. Case No. 215 of 2022, F.I.R. dated
05.04.2022 registered for the offence punishable under Sections
8, 15(c) and 22 (C) of N.D.P.S. Act.

3. Recovery is of 90 Kg Doda (Dry flowers of opium).

4. 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 the FIR as well as the seizure list that nothing has been
recovered from possession of the petitioner rather the recovery
has been made from the vehicle in question and the petitioner is



driver of the vehicle in question and he has no concern at all with the alleged recovery of contraband and there is non-compliance of Section 50 of the NDPS Act and Section 100 of the Cr.P.C.

5. 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 recovered contraband is more than the commercial quantity so there is embargo under Section 37 of the NDPS Act to enlarge the petitioner on bail.

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 the 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** 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**.

8. The recovery of huge quantity of contraband 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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with N.D.P.S. Case No.12 of 2022 arising out of Excise P.S. Case No. 215 of 2022 pending in the court of learned Sessions Judge, Gaya.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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