

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5788 of 2023

Arising Out of PS. Case No.-864 Year-2021 Thana- BARACHATTI District- Gaya

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YOGENDRA SHARMA Son of Paras Sharma Resident at Shiv Nagar Colony
P.S- Ratu Dist- Ranchi (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal
For the Opposite Party/s : Mr.Sanjay Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 18-05-2023 Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner seeks bail, who is in custody since
30.12.2021, in connection with Barachatti (Mohanpur) P.S. Case
No. 864 of 2021, Special NDPS Act Case No. 92 of 2021, F.I.R.
dated 29.12.2021, registered for the offences punishable under
Section 414 of the Indian Penal Code and Section 20, 22 of the
NDPS Act.

Prosecution case is that 126.870 kg Ganja was
recovered from the possession of the petitioner.

Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has been falsely
implicated in the present case and chargesheet has already been
submitted on 27.03.2022 against the petitioner without FSL



report. It appears from the FIR and seizure list that 126.870 kg. Ganja was recovered from the possession of the petitioner and the FSL report confirmed that the recovered contravened Ganja is more than the commercial quantity and there is clear case of NDPS Act. He further submits that the petitioner is in custody since 30.12.2021.

The learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner on the ground that the huge amount of Ganja was recovered.

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 Ganza 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.

Considering the facts and circumstances of the case, I am not inclined to grant bail to the petitioner in connection with Barachatti (Mohanpur) P.S. Case No. 864 of 2021, Special NDPS Act Case No. 92 of 2021, pending in the Court of Additional Sessions Judge-III, Gaya. Therefore, the prayer for bail of this petitioner is rejected.

(Rajesh Kumar Verma, J)

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