

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2799 of 2023

Arising Out of PS. Case No.-287 Year-2020 Thana- DHANARUA District- Patna

JITENDRA KUMAR @ MUKHIYA S/o Umesh Prasad R/v- Rewa, P.S.-
Masaurhi, District- Patna

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhirendra Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 16-08-2023 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 04.10.2020 in connection with Special Case No.146 of 2020 arising out of Dhanarua P.S. Case No.287 of 2020, F.I.R. dated 04.10.2020 registered for the offence punishable under Sections 20(b)(ii)(c) of N.D.P.S. Act.

3. As per prosecution case, in brief, it is alleged that there is recovery of 60.153 Kg. of Ganja from 12 bundles which were kept over two motorcycles, the petitioner along with other co-accused persons were involved in transporting the said Ganja.

4. Earlier the prayer for bail of the petitioner was



rejected vide order dated 09.05.2022 passed in Cr. Misc. No.59468 of 2021.

5. Learned counsel for the petitioner submits that the charge has been framed on 18.02.2021 but till date no any witness has been examined by the prosecution.

6. Vide order dated 05.07.2023, a report was called for with regard to the present status of the trial. Report dated 31.07.2023 of the learned Trial Court reveals that out of seven chargesheet witnesses, two witnesses have already been examined.

7. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court that there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 04.10.2020.

8. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that from bare perusal of the report of the learned Trial Court it appears that the trial is going on and the recovered contraband is more the commercial quantity so there is embargo under Section 37 of the N.D.P.S.Act to enlarge the petitioner on bail.

9. 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.

10. 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**.

11. 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.

12. Hence, I am not inclined to enlarge the petitioner on bail in connection with Special Case No.146 of 2020 arising out of Dhanarua P.S. Case No.287 of 2020 pending in the court of learned Additional Sessions Judge-



XVI, Patna.

13. Prayer is refused.

14. However, the learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

(Rajesh Kumar Verma, J)

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