

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1058 of 2023

Arising Out of PS. Case No.-34 Year-2022 Thana- RATANPUR District- Supaul

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VIJAY MUKHIYA Son of Late Ramchandra Mukhiya R/v- Piprahi, Ward No. 03, P.S.- Ratanpura, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nawaz Shareef, Advocate

For the Opposite Party/s : Mrs.Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 07-08-2023 Heard learned counsel for the petitioners and the learned A.P.P. for the State.

2. The petitioner seek bail, who is in custody since 05.07.2022 in connection with N.D.P.S. (Spl)Case No.18 of 2022 arising out of Ratanpura P.S. Case No. 34 of 2022, F.I.R. dated 04.07.2022 registered for the offence punishable under Sections 8/20(b)(ii)(c)/21(c)/22(c)/29 of N.D.P.S. Act.

3. Recovery is of 195 Kg of Ganja.

4. Learned counsel for the petitioner submits that the petitioner has clean antecedent and he have falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR and there is non-compliance of Sections 50 and 52 of the N.D.P.S.Act and the police has not



examined the C.D.R. of the mobile of the petitioner.

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 altogether 195 Kg of Ganja has been recovered from possession of the petitioner and the F.S.L. report also confirms that the recovered contraband is Ganja and 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 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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with N.D.P.S. (Spl)Case No.18 of 2022 arising out of Ratanpura P.S. Case No. 34 of 2022 pending in the court of learned Sessions Judge-cum-Special Judge, N.D.P.S., Supaul.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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