

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12258 of 2024

Arising Out of PS. Case No.-42 Year-2021 Thana- CHHATAUNI District- East Champaran

Ramayan Sharma @ Ramayan Thakur Son Of Sri Sukhal Thakur Resident Of
Village- Pipara Pachhimwari Tola, Ps- Darpa, Distt- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Manglam, Advocate

For the Opposite Party/s : Mr. Vinod Shanker Modi, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-04-2024 Heard Mr. Kumar Manglam, learned counsel for
the petitioner and Mr. Vinod Shanker Modi, learned Additional
Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
25.03.2021 in connection with Special (NDPS) Case No. 45 of
2021 arising out of Chhatauni P.S. Case No. 42 of 2021 for the
offences punishable under Sections 8 and 20 (b) (ii) (c) of the
N.D.P.S. Act, 1985 and Section 25(1-b)a, 26 and 35 of the Arms
Act.

3. Earlier the bail application of the petitioner has
been rejected by this Hon'ble Court vide order dated 28.04.2023
passed in Cr. Misc. No. 66223 of 2022.

4. Learned counsel for the petitioner submits that
petitioner is innocent and he has falsely been implicated in the



present case. He further submits that as per the allegation in the F.I.R. altogether 1.200 kg of Charas has been recovered from the co-accused, namely, Biltu Sah and nothing has been recovered from the conscious possession of the petitioner.

5. Learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation that the petitioner was involved in the present crime in question and the F.S.L. report also confirms that the recovered contraband is Charas and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act. He further submits that the petitioner carries seven criminal antecedents other than the present one.

6. Vide order dated 23.02.2024 a report was called with regard to the stage of trial. Report of the learned Trial Court dated 01.03.2024 reveals that the trial is going on and one prosecution witness has already been examined.

7. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotic is alleged is circumscribed under Narcotic Drugs and Psychotropic Substance Act, 1985, Section 37 which says that before grant of bail, the Court must have reason to believe that petitioner has not committed the



offence and in the event of release he would not commit similar offence.

8. The issue was considered by the Hon'ble Supreme Court in the case of **State of Kerala and Ors. Vs. Rajesh and 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 **Union of India vs. Ajay Kumar Singh @ Pappu** reported in **2023 SCC OnLine SC 3456** dated 28.03.2023.

9. The recovery of huge quantity of Charas recovered 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.

10. Considering the nature of allegation as well as criminal antecedent of the petitioner, I am not inclined to enlarge the petitioner on bail in connection with Special (NDPS) Case No. 45 of 2021 arising out of Chhatauni P.S. Case No. 42 of 2021 pending in the Court of learned 1st Additional Sessions Judge-cum-Special Judge, East Champaran at Motihari.

11. Prayer is refused.



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

(Rajesh Kumar Verma, J)

Vanisha/-

U		T	
---	--	---	--

