

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12468 of 2024

Arising Out of PS. Case No.-150 Year-2021 Thana- SIWAIPATTI District- Muzaffarpur

Mohan Kumar S/o Kavindra Prasad @ Kavindra Prasad Chandrawansi, R/o
vill - Krishna Toli, Brahmpura, P.S. - Brahmpura, Distt. - Muzaffarpur.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance:

For the Petitioner : Mr. Jitendra Kumar, Advocate
For the Opposite Party : Mr. Uma Shankar Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 10-05-2024 Heard Mr. Jitendra Kumar, the learned counsel for
the petitioner and Mr. Uma Shankar Prasad Singh, the learned
Additional Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since
26.11.2021, in connection with Siwaipatti P.S. Case No. 150 of
2021, FIR dated 25.11.2021, registered for the offences punishable
under Sections 8, 20 and 22 of the NDPS Act.

3. Earlier the petitioner has moved before this Hon'ble
Court in Cr. Misc. No. 43321 of 2022, which was rejected vide
order dated 27.04.2023.

4. According to the prosecution case, the informant,
upon receiving secret information regarding two persons selling
charas like substance and waiting for customer in Chhitra Market,
reached at the alleged place and upon seeing the police party, two



persons sitting on a bullet, tried to flee away, however, one of them was caught after giving chase and another managed to flee away. It is further alleged that from the possession of apprehended person one kilogram of narcotic substance was recovered.

5. Learned counsel for the petitioner submits that petitioner has falsely been implicated in the present case and according to the FIR one kilogram of *charas* is said to have been recovered from the possession of the petitioner. He further submits that petitioner was not involved in dealing with the *charas*.

6. Vide order dated 20.03.2024, a report was called for with regard to the stage of the trial and report dated 30.03.2024 of the learned trial Court reveals that trial is going on and charge has been framed against the petitioner on 29.08.2022.

7. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner and submits that one kilogram of *charas* has been recovered from the possession of the petitioner and the recovered quantity comes under the purview of commercial quantity and the FSL report also confirms that the recovered contraband is *charas*.

8. Considering the aforesaid facts and circumstances and the fact that one kilogram of *charas* has been recovered from the conscious possession of the petitioner and the FSL report has confirmed that the recovered contraband is *charas*.



9. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotics in alleged is circumscribed under NDPS Act, Section 37, which says that:

“before the 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.”

9.1. The issue was considered by the Hon’ble Supreme Court in the case of ***State of Kerala & Ors. Vs. Rajesh & Ors.***, reported in ***2020(12) SCC 122*** as well as in the case of ***Narcotic Control Bureau Vs. Mohit Aggrawal*** in Cr. Appeal Nos. 1001-1002 of 2022, arising out of ***Special Leave to Appeal (CRL.) No. 6128-29 of 2021.***

10. Accordingly, I am **not** inclined to enlarge the petitioner on bail in connection with Siwaipatti P.S. Case No. 150 of 2021, pending in the Court of learned Special NDPS Court No.-1, Muzaffarpur.

11. Prayer is refused.

(Rajesh Kumar Verma, J)

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