

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22131 of 2024

Arising Out of PS. Case No.-634 Year-2021 Thana- SAKRA District- Muzaffarpur

Kamlesh Kumar S/o Late Upendra Mahto R/o vill - Ladaura Chowk, P.S. -
Kalyanpur, Dist. - Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Hari Kishore Thakur, Advocate

For the Opposite Party/s : Mr.Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 10-05-2024 Heard Mr.Hari Kishore Thakur, learned counsel for
the petitioner and Mr.Uday Chand Prasad, learned A.P.P. for the
State.

2. The petitioner seeks bail, who is in custody since
31.01.2022 in connection with NDPS Case No.23 of 2022
arising out of Sakra P.S. Case No. 634 of 2021 registered for the
offence punishable under Sections 399,402 and 34 of IPC,
Sections 25(1-b)a, 26 and 35 of Arms Act and Sections 8,20 and
22 of N.D.P.S. Act.

3. Earlier the prayer for bail of the petitioner was
rejected vide order dated 22.06.2023 passed in Cr. Misc.
No.73926 of 2022.

4. It appears from the FIR that altogether 01 Kg of
Charas, one Vivo Mobile Phone, one country made pistol with



one live cartridge and a Honda Motorcycle were recovered from possession of the petitioner and although the recovery has been made from possession of the petitioner but he has falsely been implicated in the present case.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that according to seizure list 01 Kg of Charas, one Vivo Mobile Phone, one country made pistol with one live cartridge and a Honda Motorcycle were recovered from possession of accused persons and F.S.L. report also suggests that the recovered contraband is Charas.

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 Charas 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. Considering the aforesaid facts, I am not inclined to enlarge the petitioner on bail in connection with NDPS Case No.23 of 2022 arising out of Sakra P.S. Case No. 634 of 2021 pending in the court of learned Special Judge, N.D.P.S., Court No.1, Muzaffarpur.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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