

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32555 of 2024

Arising Out of PS. Case No.-114 Year-2021 Thana- KOCHAS District- Rohtas

=====

Dharmendra Kumar Sah @ Dharm S/O Late Bans Narayan Sah Resident Of
Village Chittaini Ps Kochas District Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Sinha, Advocate
For the State : Mr. Rajendra Prasad Nat, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 11-07-2024 Heard Mr. Santosh Kumar Sinha, learned counsel for

the petitioner and Mr. Rajendra Prasad Nat, learned APP for the

State.

2. Petitioner seeks bail, who is in custody since
30.08.2023, in connection with Kochas P.S. Case No. 114 of
2021 for the offences punishable under Sections 8, 20(b) (ii)
(c)/25/29 of the N.D.P.S. Act, 1985.

3. Recovery is of 70 kg of Ganja.

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 although the petitioner is
named in the FIR, the name of the petitioner has been transpired
only on the basis of the disclosure made by the co-accused
person, namely, Chhotu Kumar. He further submits that except
the aforesaid no other cogent material has come during the



investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that there is non-compliance of Section 42 and 50 of the NDPS Act. He further submits that without the F.S.L. report, the petitioner has been implicated in this case.

5. Learned Additional Public Prosecutor, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that from a bare perusal of the FIR it appears that 70 kg of Ganja recovered from the vehicle in question and the petitioner was sitting along with other co-accused person and the bail application of the co-accused person, namely, Chhotu Kumar has been rejected by this Court vide order dated 20.04.2022 passed in Cr. Misc. No. 58896 of 2021. He further submits that the petitioner carries two criminal antecedents other than the present one out of which one is of similar nature of the offence apart from that the F.S.L. report confirms that the recovered contraband is Ganja and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

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 Substance Act, 1985, Section 37 which says that before grant of bail, the Court must



have reason to believe that petitioners have 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 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.

8. The recovery of huge quantity of Ganja 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.

9. Hence, I am not inclined to enlarge the petitioner on bail in connection with Kochas P.S. Case No. 114 of 2021 pending in the Court of learned District and Sessions Judge, Rohtas at Sasaram.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

ajay/-

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

