

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38760 of 2024

Arising Out of PS. Case No.-242 Year-2023 Thana- ROSHANGANJ District- Gaya

Gunjan Kumar Son of Krishna Yadav R/o Vill.- Lutua, P.S.- Imamganj, Dist.-
Gaya, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Amritanshu Dangi, Advocate

For the Opposite Party/s : Mr. Raj Kishor Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 18-09-2024 Heard Mr. Amritanshu Dangi, learned counsel for
the petitioner and Mr. Raj Kishor Singh, learned APP for the
State.

2. Petitioner seeks bail who is in custody since
17.08.2023 in connection with Roushanganj (Bankebazar) P.S.
Case No. 242 of 2023 for the offences punishable under
Sections 20 and 22 of the N.D.P.S. Act, 1985.

3. Recovery is of 6 kg of Opium.

4. Learned counsel for the petitioner submits that
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that the
allegation as alleged in the F.I.R. is false and fabricated and the
petitioner has not committed any offences as alleged in the
F.I.R. He further submits that nothing has been recovered from



the conscious possession of the petitioner rather the recovery of the contraband has been made from the motorcycle in question. He further submits that there is non-compliance of Sections 42 and 50 of the NDPS Act.

5. Learned Additional Public Prosecutor on the basis of material available on record as well as case diary has vehemently opposed the prayer for bail of the petitioner and submits that the F.S.L. report confirms that the recovered contraband is Opium which was recovered from the motorcycle in question and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. 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 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.

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 opium 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 Roushanganj (Bankebazar) P.S. Case No. 242 of 2023 pending in the Court of learned Sessions Judge cum Special Judge (NDPS Act), Gaya.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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