

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51960 of 2023

Arising Out of PS. Case No.-102 Year-2022 Thana- SURSAND District- Sitamarhi

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Avinash Kumar @ Vicky S/O Umesh Prasad @ Umesh Lal R/O Village-
Hanuman Nagar, Ward No. 06, Ps. Sursand, Dist. Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner : Mr. Ugranath Mallik, Advocate
For the State : Mr. Md. Ataur Rahman, APP

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

6 11-03-2024 Heard learned counsel for the petitioner and learned APP
for the State and perused the case diary.

2. The petitioner seeks bail in connection with
Sursand (Bhita O.P.) P.S. Case No. 102 of 2022 instituted for the
offences under Section 414 of the Indian Penal Code and
Section 8(c)/20(b)(ii)(c)/22(c)/23(c)/25 & 29 of the NDPS Act.

3. Prosecution case in a nutshell is that there is
recovery of 108.6 Kg ganja from the Scorpio vehicle.

4. Earlier *vide* order dated 03-01-2024, a report was
called for with respect to the stage of trial, the number of
witnesses to be examined and the expected duration that will
take to conclude the trial in connection with the instant case. A
report dated 06-01-2024 has been sent by Sessions Judge,



Sitamarhi and the report is to the effect that charge has been framed in this case on 10-10-2023. Thereafter summons have been issued against witnesses and two witnesses have been examined. Three charge sheet witnesses are yet to be examined including the two Investigating Officers and the trial is likely to be concluded within six months.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner has surrendered in this case since 25-01-2023 and has got no criminal antecedent. Charge-sheet has been submitted in this case. There is no allegation of tampering of witnesses alleged against the petitioner. Learned counsel further submits nothing has been recovered from the physical possession of the petitioner. It is lastly submitted that seizure list is not prepared in accordance with law.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned A.P.P. submits that recovered contraband is above the commercial quantity, hence, there is bar under Section 37 of the N.D.P.S. Act.

7. Considering the aforesaid facts and circumstances of the case and recovery of contraband beyond commercial



quantity coupled with embargo under Section 37 of the N.D.P.S. Act, this Court is not inclined to grant bail to the petitioner.

8. The prayer is *rejected*.

9. The Trial Court is directed to take all necessary steps to conclude the trial at earliest without any undue delay and unnecessary adjournments.

10. The District Magistrate, Sitamarhi and the Superintendent of Police, Sitamarhi are also directed to take necessary steps to produce the witnesses on the date fixed in the Trial Court so that the trial could be concluded at the earliest.

11. Let this order be communicated to the District Magistrate, Sitamarhi and the Superintendent of Police, Sitamarhi.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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