

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53378 of 2024

Arising Out of PS. Case No.-3 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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Akhilesh Kumar S/o Ramavriksh Ray R/o Village Saidabad Ward No.3 PS
Raghopur Dist Vaishali

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Singh, APP
For the U.O.I./N.C.B	:	Mr. Arvind Kumar, CGC

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 27-09-2024 Heard Mr. Rajeev Kumar learned counsel for the

petitioner, Mr. Arvind Kumar, learned counsel for the N.C.B and

Mr. Sanjay Kumar Singh learned A.P.P. for the State.

2. The petitioner seeks bail, who is in custody since
22.01.2022 in connection with N.D.P.S. Case No.18 of 2022
arising out of N.C.B. Patna Case No. 03 of 2022 F.I.R. dated
22.01.2022 registered for the offence punishable under Sections
8 (c) read with 20(b) (ii) (c) and 25 & 29 of the N.D.P.S. Act.

3. Earlier the prayer for bail of the petitioner was
rejected vide order dated 14.07.2023 passed in Cr.Misc. No.
8007 of 2023.

4. Learned counsel for the petitioner submits that
although 297 kg of contraband articles/ganja was recovered



from the vehicle in question and the petitioner was driver and he has no knowledge about the contraband and apart from that, he submits that the petitioner is in custody since 22.01.2022 and trial is not in progress.

5. Vide order dated 02.08.2024 a report was called for with regard to the present status of the trial. Report of the learned Trial Court dated 08.08.2024 reveals that trial is in progress and out of six witnesses, two witnesses have already been examined.

6. Learned counsel for the N.C.B vehemently opposed the prayer for bail of the petitioner and submits that the trial is going on and apart from that, 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.

7. 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.

8. 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**.

9. The recovery of huge quantity of Ganja from the vehicle in question 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.

10. Considering the report of the learned Trial Court, I am not inclined to enlarge the petitioner on bail in connection N.D.P.S. Case No.18 of 2022 arising out of N.C.B. Patna Case No. 03 of 2022 pending in the court of Learned Session Judge-II/Special Judge, N.D.P.S. Patna.

11. Prayer is refused.

(Rajesh Kumar Verma, J)

Nitesh/-Harshita

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