

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57231 of 2024

Arising Out of PS. Case No.-175 Year-2024 Thana- ARARIA District- Araria

Pawan Pandit @ Pawan Kumar Pandit Son of Late Narayan Pandit R/O Vill.-
Jimrahi, Ward no. 03, P.S.- Bathnaha, Dist.- Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Mandal, Advocate

For the Opposite Party/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 25-09-2024 Heard Mr. Arun Kumar Mandal, learned counsel for
the petitioner, Mr. Jharkhandi Upadhyay, learned APP for the
State.

2. Petitioner seeks bail who is in custody since
16.03.2024 in connection with Araria Baigachi P.S. Case No.
175 of 2024 for the offences punishable under Sections 29, 25,
20(B)ii C, 8 of the N.D.P.S. Act.

3. The case relates to recovery of 37.265 Kgs. of
Ganja.

4. Learned counsel for the petitioner submits that the
petitioner has clean antecedent and he has falsely been
implicated in the present case. He further submits that from
perusal of the F.I.R. it appears that nothing has been recovered
from the conscious possession of the petitioner rather recovery



has been made from the vehicle in question. He further submits that the petitioner is neither the driver nor the owner of the vehicle in question and he is only co-passenger of the vehicle in question the petitioner has no concern with the alleged recovery of the contraband.

5. Learned Additional Public Prosecutor, on the other hand, vehemently opposed the prayer for bail of the petitioner and submits that from perusal of the F.I.R. it appears that altogether 37.265 Kgs. of ganja was recovered from the vehicle 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 and FSL report also confirms that the recovered contraband is *Ganja*.

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 *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. Considering the aforesaid facts and circumstance of the case, I am not inclined to enlarge the petitioner on bail in connection with Araria Baalgachi P.S. Case No. 175 of 2024, pending in the Court of learned Sessions Judge, Araria, District- Araria.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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