

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59181 of 2023

Arising Out of PS. Case No.-13 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

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Kallu Sahni S/O Late Shyambabu Sahni R/O Vill.- Kamlalichak Devi Asthan,
P.S.- Bypass, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Amrendra Kumar, Advocate
For the State : Mr. Uday Chand Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

8 27-06-2024 Heard Mr. Amrendra Kumar, learned counsel for the

petitioner and Mr. Uday Chand Prasad, learned APP for the State.

2. Petitioner seeks bail, who is in custody since
05.06.2021, in connection with NDPS Case No. 14 of 2021
arising out of NCB Case No. 13 of 2021 for the offences
punishable under Sections 20(b)(ii)(c), 25 and 29 of the N.D.P.S.
Act, 1985.

3. Earlier the prayer for bail of the petitioner was
rejected vide order dated 20.09.2022 passed in Cr. Misc. No.
17912 of 2022. Thereafter the petitioner has moved before this
Court for grant of bail in the present matter.

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 as per the allegation in the F.I.R. altogether 1223.7 kg of Ganja has been recovered from the tanker in question. He further submits that the petitioner is newly appointed cleaner by the driver and he has no knowledge about the seized contraband item.

5. Vide order dated 02.02.2024, a report with regard to the present status of the trial was called for. Report of the learned Trial Court dated 23.03.2024 reveals that out of six witnesses, two witnesses have been examined and four prosecution witnesses are to be examined.

6. Learned Additional Public Prosecutor for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that huge quantity of ganja weighing to 1223.7 kg recovered from the tanker in question which has fallen within the purview of the commercial quantity and since the quantum of recovery of Ganja is fallen within the purview of the commercial quantity which is defined as 20 Kg., this Court intends to refer Section 37 of the N.D.P.S. Act which clearly depicts that the grant of bail in N.D.P.S. cases, where the recovery of commercial quantity of narcotic is alleged, is circumscribed. Section 37 says that for granting bail, the Court must, on the basis of the record produced before it, be satisfied



that there are reasonable grounds for believing that the accused is not guilty of the offences for which he has been charged, and further he is not likely to commit any offence while 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 Substance Act, 1985, Section 37 of 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.

8. 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.

9. 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.



10. Hence, I am not inclined to enlarge the petitioner on bail in connection with N.D.P.S. Case No. 14 of 2021 arising out of NCB Case No. 13 of 2021 pending in the Court of learned A.D.J. 1st Begusarai.

11. Prayer is refused.

12. However the learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

(Rajesh Kumar Verma, J)

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