

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60647 of 2023

Arising Out of PS. Case No.-363 Year-2022 Thana- DAGARUA District- Purnia

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Rahul Kumar S/O- Mukesh Prasad Sah @ Mukesh Sah resident of village-
Kutubpur W ard No-14, P.S- Bidupur, Dist- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

8 03-04-2024 Heard Mr. Ashok Kumar Mishra, learned counsel for

the petitioner and Mr. Sunil Kumar Pandey, learned APP for the

State.

2. Petitioner seeks bail who is in custody since

18.11.2022 in connection with Special NDPS Case No. 40 of

2023 arising out of Dagarua P.S. Case No. 363 of 2022 for the

offences punishable under Sections 399, 402/34 of the Indian

Penal Code, Sections 8, 20(B)(ii)(C), 25, 29 of the N.D.P.S.

Act.

3. The case relates to recovery of 54 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 the



allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not committed any offence as alleged in the F.I.R. He further submits that there is non compliance of Sections 42, 50 and 55 of the NDPS Act and apart from it appears from the F.I.R. as well as seizure list that nothing has been recovered from the conscious possession of the petitioner rather recovery has been made from the vehicle in question and the petitioner was the co-passenger of the vehicle in question. He further submits that he has no concern at all with the alleged recovery of the contraband or the co-accused person. The petitioner is in custody since 18.11.2022.

5. Learned Additional Public Prosecutor, on the other hand, on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that altogether 54 Kgs. of Ganja has been recovered from the vehicle in question and the petitioner along with other co-accused was apprehended and FSL report also confirms that the recovered contraband is Ganja and the recovered ganja is more than the commercial quantity. He further submits that the bail application of co-accused person namely Sanjit Kumar Singh @ Sujit Kumar Singh has been rejected by this Court vide order dated 28.08.2023 passed in Cr.



Misc. No. 42638 of 2023.

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 recently decided the judgment in the case of **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. Hence, I am not inclined to enlarge the petitioner on bail in connection with Special NDPS Case No. 40 of 2023



arising out of Dagarua P.S. Case No. 363 of 2022, pending in
the Court of learned Special Judge, N.D.P.S. Purnea.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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