

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62524 of 2024

Arising Out of PS. Case No.-15 Year-2024 Thana- D.R.I District- Muzaffarpur

Sanjay Maurya Son of Sri Ramasre Maurya R/o Village - Shivdspur, Post and
P.S.- Manduwadih, District - Varanasi (U.P.).

... .. Petitioner/s

Versus

The Union of India through D.R.I.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raju Kumar, Adv.
For the DRI	:	Mr. Sriram Krishna, (Sr. SC)
		Mr. Amarjeet, Adv.
		Mr. Prabhat Kumar Singh, Adv.
		Mr. Shashank Shekhar Kunwar, Adv.

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

ORAL ORDER

4 05-12-2024 Heard learned counsel for the petitioner and learned
counsel for the D.R.I.

2. The petitioner seeks bail in connection with D.R.I.
Muzaffarpur Case No. 15/2023-24 instituted for the offences
under Sections 20, 25 and 29 of the N.D.P.S. Act.

3. As per prosecution case, the police has recovered
372.8 Kg Ganja from the truck bearing Regd. No. UP 65KT-
8982, kept hidden and driven by the petitioner and one another.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence as alleged
against him and has falsely been implicated in the present case
due to highhandedness of the DRI officials. He further submits



that nothing incriminating has been recovered from the conscious possession of the petitioner. The alleged contraband is alleged to be recovered from the Tata Pick-up vehicle and the petitioner is not the owner of the same rather he is the passenger and was coming to Muzaffarpur to catch the train for Varanasi. He further submits that the police have forcibly taken the signature of the petitioner on plain paper and, later on, converted the same into a seizure list. The petitioner has no concern with the seized contraband or the alleged vehicle. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. There is also non-compliance of Section 100 of the Cr.P.C. which creates a serious doubt in the prosecution case. The petitioner has no criminal antecedent and is languishing in judicial custody since 27.01.2024 without any rhymes or reason.

5. On the other hand, learned counsel for the D.R.I. has vehemently opposed the prayer for grant of bail to the petitioner. He submits that the recovered contraband is much more than the commercial quantity and, hence, there is bar under Section 37 of the N.D.P.S. Act.

6. Learned counsel for the DRI has filed counter affidavit. Paragraph no.12, being relevant, reads as follows:-

“12. That with regard to the contents of Paragraph no.8 of the criminal miscellaneous



application under reply, it is humbly submitted that admittedly 372.8 KG of Ganja was recovered and seized, which is much more than the commercial quantity, therefore the provisions of Section 37 of the NDPS Act is duly applicable in the instant case. Furthermore, in view of the law laid down by the Hon'ble Supreme Court in Union of India v. Ratan Malik @ Habul, reported in 2009 (1) SCC (Cri) 83, the petitioner is not entitled to released on bail."

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 as also the petitioner being a member of the criminal conspiracy, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the prayer for bail of the petitioner is rejected.

(Rudra Prakash Mishra, J)

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