

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68819 of 2024

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

NITISH KUMAR S/O SURESH MEHATA R/o Hanuman Nagar Chaura, P.S.
- Madhepura, Distt. - Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sangeet Deokuliar, Advocate

For the Opposite Party/s : Mr.Md. Shakir Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 06-12-2024 Heard Mr.Sangeet Deokuliar, learned counsel for the

petitioner and Mr.Md. Shakir Ahmad, learned A.P.P. for the

State.

2. The petitioner seeks bail, who is in custody since
16.03.2024 in connection with Araria (Bairgachhi OP) P.S. Case
No. 175 of 2024 registered for the offence punishable under
Sections 8/20(b)(ii)(c),25,29 of N.D.P.S. Act.

3. Recovery is of 37.265 kilograms of Ganja.

4. Learned counsel for the petitioner submits that the
petitioner has falsely been implicated in the present case.
Further submits that from a bare perusal of the FIR it appears
that nothing has been recovered from conscious possession of
the petitioner rather altogether 37.265 kilograms of Ganja has
been recovered from the vehicle in question and petitioner has



no concern at all with the alleged recovery of contraband and he has been made accused in the present case merely on the basis that the petitioner is driver of the vehicle in question.

5. Learned APP for the State, on the other hand, has vehemently opposed the prayer for bail of the petitioner and submits that the recovered contraband is more than the commercial quantity and there is embargo under Section 37 of NDPS Act to enlarge the petitioner on bail and F.S.L. report also confirms that the recovered article is contraband and apart from that, petitioner carries two more cases other than the present one and out of two cases, one case is pertaining to NDPS matter one case is Excise matter.

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 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.

7. 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**.

8. The recovery of huge quantity of Ganja from possession of the petitioner 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, I am not inclined to enlarge the petitioner on bail in connection with Araria (Bairgachhi OP) P.S. Case No. 175 of 2024 pending in the court of learned Special Judge,Araria.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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