

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85022 of 2023

Arising Out of PS. Case No.-144 Year-2022 Thana- SARSI District- Purnia

Dularchand Yadav @ Dularchandra Yadav Son Of Upendra Yadav @ Upender
Yadav R/O Village- Jiyanganj, Madhya Tola, P.S.- Sarsi, Dist.- Purnia

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.K Agarwal, Sr. Advocate
Dr. Bidhu Ranjan, Advocate

For the Opposite Party/s : Mr. Kumar Rajdeep, Advocate
Mr. Arvind Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 04-07-2024 Heard Mr. N.K Agarwal, learned senior counsel for
the petitioner and Mr. Arvind Kumar Pandey, learned APP for
the State.

2. Petitioner seeks bail who is in custody since
16.09.2022 in connection with Sarsi P.S Case No. 144 of 2022
for the offences punishable under Sections 8(c), 20(b)(ii),
121(b) and 25 of the N.D.P.S. Act, 1985.

3. Earlier the bail application of the petitioner has
been rejected by this Hon'ble Court vide order dated 20.04.2023
passed in Cr. Misc. No. 69615 of 2022.

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 64.040 kg of Ganja along with electronic weighing machine, cough syrup and other articles have been recovered from the vehicle in question. He further submits that there is non-compliance of Section 42 and 50 of the NDPS Act.

5. Learned Additional Public Prosecutor on the other hand vehemently opposed the prayer for bail of the petitioner and submits that it appears from the order dated 20.04.2023 passed in Cr. Misc. No. 69615 of 2022 that the F.S.L. report confirms that the recovered contraband is Ganja and the recovered contraband is more than the commercial quantity, so there is embargo under Section 37 of the N.D.P.S. Act.

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. Hence, I am not inclined to enlarge the petitioner on bail in connection with Sarsi P.S Case No. 144 of 2022 pending in the Court of learned Additional Sessions Judge-III, Purnia.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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