

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32745 of 2026

Arising Out of PS. Case No.-53 Year-2026 Thana- R S P.S. District- Araria

Obaidur Momin Son of Ismain Momin R/o Village - Bhagalpur, P.S. - Kaliyachak, District - West Bengal.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Gupta, Advocate

For the Opposite Party/s : Mr. Arun Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 13-05-2026 Heard Mr. Umesh Kumar Gupta, learned counsel for the petitioner and Mr. Arun Kumar Singh, learned APP for the State.

2. Petitioner seeks bail who is in custody since 13.03.2026 in connection with R.S. (Araria) P.S. Case No. 53 of 2026 for the offences punishable under Sections 8(c), 21(c) and 25 of the N.D.P.S. Act, 1985.

3. Recovery is of 1.500 kg of Smack.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR.

5. Learned Additional Public Prosecutor on the other



hand vehemently opposed the prayer for bail of the petitioner and submits that from perusal of the seizure list it appears that altogether 1.500 kg of contraband (Smack) has been recovered from the conscious possession of the petitioner and apart from that one mobile phone, one Aadhar Card etc., have also been recovered from the conscious possession of the petitioner. He further submits that there is compliance of Section 42 and 50 of the NDPS Act 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 petitioners have 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 contraband 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 R.S. (Araria) P.S. Case No. 53 of 2026 pending in the Court of learned Principal District and Sessions Judge, Araria.

10. Prayer is refused.

(Rajesh Kumar Verma, J)

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