

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.2233 of 2021**

Arising Out of PS. Case No.-49 Year-2020 Thana- BAKHTIYARPUR District- Patna

Birendra Kumar aged about 42 years, (Male) son of late Rajendra Pd. Yadav  
Resident of village- Naya Tola Dedaur, Police Station- Bakhtiyarpur, District-  
Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Opp Party

**Appearance :**

For the Petitioner : Mr. Rahul Kumar, Advocate

For the State : Mr. Mithilesh Kumar Khare, APP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

8      31-08-2021      In view of the sudden resurgence of Covid-19 infection,  
  
there is limited functioning of the High Court and, therefore, the  
  
matter has been listed today for consideration through virtual  
  
mode.

Learned counsel for the petitioner is expected to honour  
his undertaking given in the instant case for depositing the  
requisite court fee and to remove the defects as pointed out by  
office when called upon to do so by the office.

Heard learned counsel for the petitioner and learned  
counsel for the State.

The petitioner seeks bail in Spl N.D.P.S. Case No. 32 of  
2020 arising out of Bakhtiyarpur PS Case No. 49 of 2020,  
instituted for the offence under Sections 20(b)(II) (c)/22(c) of  
the Narcotic Drugs and Psychotropic Substances Act, 1985



( hereinafter referred to as ‘the Act’).

On alleged recovery of 40 kg ‘*Ganja*’ from the rented premises where the petitioner was residing, the petitioner has been named in the First Information Report.

The learned counsel for the petitioner being conscious of mandate of Section 37 of the Act has submitted that this is a case where *prima facie* opinion that the petitioner is not guilty, could be arrived at, since there is no investigation regarding the tenancy in the house from where the recovery was made. On this point, this Court had adjourned the matter earlier and specifically asked for an affidavit to be filed by the superintendent of police.

Affidavit has been filed. The same reveals that in the investigation, petitioner’s tenancy has been found and further it is stated that even today his family is residing in the house. There is no scope for the petitioner to contend that an opinion may be recorded for the purpose of grant of bail in terms of Section 37 of the Act, that the petitioner is not guilty. The findings of the investigation, needless to say are subject to whatever may, or may not be established at the trial.

For the purpose of grant of bail under Section 37 of the Act, there is no scope, at this stage, to arrive at a *prima facie*



opinion that the petitioner is not guilty of the offence in view of the mandate of Section 37 of the Act. This Court would only observe that the other mandate under Section 36 of the Act regarding speedy justice should also be adhered to by the Court.

Learned A.P.P. representing the State has opposed the prayer for bail.

On a consideration of the rival submissions of the parties on the point of bail and having regard to the submissions advanced by the learned A.P.P., which the Court is inclined to accept, the prayer for bail made on behalf of petitioner is rejected.

The trial be expedited without granting unnecessary and undue adjournment in the matter.

shyambihari/-

**(Madhuresh Prasad, J)**

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

