

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8483 of 2022

Arising Out of PS. Case No.-381 Year-2019 Thana- BARACHATTI District- Gaya

RAJESH YADAV SON OF TULSI YADAV @ TULASI YADAV @ TULASI
PRASAD YADAV R/O VILLAGE- SAMARGARHI, P.S.- TANKUPPA,
DISTRICT- GAYA

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vijay Anand

For the Opposite Party/s : Mr. Dr. Ajeet Kumar

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

6 16-08-2022 Learned counsel for the petitioner is permitted to
remove defect (s), as pointed out by the office, if any, within a
period of four weeks on resumption of physical mode.

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

The petitioner has preferred this application for grant
of regular bail in a case registered u/s 20 and 22 of the N.D.P.S.
Act.

As per the prosecution case, a sack of *Ganja* weighing
25 kgs was recovered from the cabin and two sacks of *Ganja*
weighing 50 kgs were recovered from the container of the truck
bearing No. WB73W which was being driven by the petitioner.

Learned counsel for the petitioner has submitted that



the petitioner is innocent and has falsely been implicated in this case. The petitioner has clean antecedent as stated in para 3 of the bail petition. The Charge-sheet has already been submitted in this case. The petitioner is languishing in jail custody since 25.08.2019.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the co-accused who has already been granted bail by the Co-ordinate Bench vide order dated 02.12.2021 passed in Cr. Misc. No. 21326 of 2021 is a passenger in the said vehicle. So, the case of the petitioner is different from that of the co-accused who has already been granted bail. Moreover, the two previous regular bail petitions of the petitioner have been rejected by this Hon'ble Court passed in Cr. Misc. No. 78058 of 2019 and 36953 of 2020. In the said Cr. Misc. No. 36953/2020, the learned Court was directed to take all effective steps to conclude the trial of the petitioner within nine months and if the trial of the petitioner is not concluded within the aforesaid nine months, the petitioner would be at liberty to renew his prayer for bail.

Perused the record. The learned Court below didn't disclose the reason of delay to conclude the trial as per report submitted by the concerned court. The trial of case is at the



advanced stage. Out of eight witnesses, seven witnesses have already been examined on behalf of the prosecution. The seized contraband is commercial quantity i.e., 75 kgs of *Ganja*.

As per Section 37 of the N.D.P.S. Act, the two conditions are that the Court should be satisfied with :-

(i) There are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) He is not likely to commit any offence while on bail.

If either of these two conditions is not satisfied, the bar operates and the accused cannot be released on bail. The Court is of the opinion that the parameters of bail available under Section 37 of the Act have not satisfied in the facts of the instant case.

The Hon'ble Supreme Court in the case of ***Narcotics Control Bureau v. Mohit Aggarwal 2022 SCC OnLine SC 891*** has held that “*The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the N.D.P.S. Act.*”

Considering the aforesaid facts and circumstances as



well as the recovery of 75 kgs *Ganja* from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

Learned trial Court is directed to expedite the trial and conclude the same preferably within four months.

This application is rejected.

(Chandra Prakash Singh, J)

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