

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10561 of 2022**

Arising Out of PS. Case No.-629 Year-2021 Thana- TURKAULIYA District- East
Champaran

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RUPAM SINGH @ CHHOTAN SINGH Son of Mukul Singh @ Nand
Kishore Singh Resident of Village- Raghunathpur, P.s.- Turakoliya
(Raghunathpur), District- East Champaran, Bihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vikash Kumar Pankaj

For the Opposite Party/s : Mr.Binod Kumar

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

ORAL ORDER

7 10-10-2022 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
A.P.P for the State.

The petitioner has preferred this application for grant
of regular bail in a case registered under sections 25(1-B)(a), 26
and 35 of the Arms Act and 8 and 20(b)(ii)(C) of the NDPS Act.

As per the prosecution case, one country-made pistol
with two live cartridges and 1.972 Kg of *Charas* were recovered
from the house of the petitioner during the course of raid.

Learned counsel for the petitioner has submitted that



the petitioner is innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioner. The Seizure list has been prepared before the lodging of the FIR. Learned counsel has further submitted that the house from which the seized articles were recovered does not belong to the petitioner. The petitioner is accused in four other criminal cases as stated in para 3 of the bail petition. The petitioner is in custody since 12.08.2021.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting the seized contraband is commercial quantity that is 1.972 Kg of *Charas* and the bar of Section 37 of the NDPS Act would apply in this case.

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. This 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, circumstances and the recovery of commercial quantity of the seized contraband from the conscious possession of the petitioner, I am not inclined to enlarge this petitioner above-named on bail.

Learned Trial Court is directed to expedite the trial and conclude the same preferably within 9 months.

The bail petition stands rejected.

(Chandra Prakash Singh, J)

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