

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15903 of 2022

Arising Out of PS. Case No.-10 Year-2022 Thana- MUFFASIL District- Aurangabad

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MUKESH PATEL S/o Late Krishna Patel Resident of Village - Mauna Mishra
Toli Korar Ward No. -35, P.S. - Town, District - Saran at Chapra.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nawal Kishore Singh

For the Opposite Party/s : Mr.Mohammad Sufyan

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 23-08-2022 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 A.P.P. for the State.

The petitioner has preferred this application for grant of regular bail in a case registered u/s 8 and 20(b)(ii)(c) of the N.D.P.S. Act.

As per the prosecution case, on search 22.8 kgs of *Ganja* was recovered from the Pick-up 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 is accused in one more criminal case which is related to murder and he is on bail as stated in para 3 of the bail petition. The petitioner is in custody since 10.01.2022.

Learned A.P.P. for the State has vehemently opposed the bail prayer of the petitioner by submitting that the seized contraband is commercial quantity and as per impugned order, the petitioner is the owner as well as driver of the said vehicle.

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 of the case as well as the recovery of commercial quantity i.e, 22.8 Kgs of *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 within nine months.

This bail application is rejected.

(Chandra Prakash Singh, J)

shobhakri/-

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