

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15804 of 2022

Arising Out of PS. Case No.-215 Year-2021 Thana- KUCHAIKOTE District- Gopalganj

NEERAJ RAJ son of Satish Kumar Resident of Village - Kadamwan, P.s.-
Ghorasahan, District - East Champaran, Motihari.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Harish Chandra Patel

For the Opposite Party/s : Mr.Satyendra Narayan Singh

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

ORAL ORDER

4 12-09-2022 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 20, 22, 25, 29 of the
N.D.P.S. Act.

As per the prosecution case, on search, 26 kgs of
Ganja wrapped in polythene and smart card were recovered
from the dickey of the car which was being driven by the
petitioner Neeraj Raj who was apprehended by the police.

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. Nothing has been recovered from the possession of the petitioner. The petitioner is in custody since 30.05.2021.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that 26 kgs of *Ganja* was recovered from the said vehicle which was being driven by the petitioner and the said seized contraband is commercial quantity.

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 from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner above named on bail.

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

The bail petition is rejected.

(Chandra Prakash Singh, J)

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