

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24918 of 2022

Arising Out of PS. Case No.-352 Year-2021 Thana- KORHA District- Katihar

RAVI KUMAR MANDAL, Son of Prem Kumar Mandal Resident of
Nawabganj School Tola, P.S.- Kursela, District- Katihar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shankar Kumar Choudhary

For the Opposite Party/s : Mr.Amit Kumar Rakesh

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

ORAL ORDER

2 17-08-2022 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 414 of the Indian Penal
Code and section 20 and 22 of the Narcotic Drugs and
Pshychotropic (NDPS) Act.

As per the prosecution case, on secret information, the
police intercepted the auto-rickshaw without registration number
and apprehended the petitioner and on being asked, he disclosed
his name as Ravi Kumar Mandal and he also disclosed that co-



accused persons Pawan Kumar Mandal and Dilip Kumar Mandal succeeded to flee away. On search total 31 kg *Ganja* was recovered from the said auto-rickshaw which was being driven by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner is innocent and he has falsely been implicated in this case due to village politics. Learned counsel for the petitioner has further submitted that the petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 10.08.2021. No offence under Section 414 of the I.P.C is made out against the petitioner as the said tempo belongs to one Dilip Kumar Mandal.

Learned A.P.P. for the State has opposed the bail petition of the petitioner and has submitted that the seized contraband is commercial quantity and the said *Ganja* was recovered from the conscious possession of the petitioner.

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 huge quantity of *Ganja* from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail. Accordingly, the prayer for bail of this petitioner is rejected.

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

This application is rejected.

(Chandra Prakash Singh, J)

sanjeev/-

U		T	
---	--	---	--

