

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28310 of 2022

Arising Out of PS. Case No.-50 Year-2020 Thana- SAHODARA District- West Champaran

BINOD SHARMA Son of Sri janak Sharma Resident of Village - Rupahi
Tand, P.s.- Bhitaha, Distt.- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India through the Inspector General , S.S.B., Frontier Head
Quarter, Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Umesh Chandra Verma

For the Opposite Party/s : Mr.Alok Kumar Jha

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

ORAL ORDER

2 20-09-2022 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 under sections 8, 20 (b)(ii)(B)
and (C) of the N.D.P.S. Act and 414 of the I.P.C.

As per the prosecution case, on search, 3.700 kgs
charas and 6.250 kgs *ganja* were recovered from the possession
of the petitioner.

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 petitioner is also accused in two other criminal cases which are not related to N.D.P.S. Act as stated in para 3 of the bail petition. The petitioner is in custody since 25.09.2020.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized ganja is less than commercial quantity but the seized *charas* is of commercial quantity and section 37 of the N.D.P.S. Act will 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. 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 recovery of commercial quantity of *charas*, 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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