

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19996 of 2023**

Arising Out of PS. Case No.-354 Year-2021 Thana- SAHEBGANJ District- Muzaffarpur

Ram Ekbal Rai, Son Of Late Daroga Rai, R/O Village- Kadhan Bairiya, P.S.-
Keshariya, District- East Champaran, Bihar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kumar Kishan, Advocate

For the Opposite Party/s : Mr. Amitesh Kumar, APP

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

ORAL ORDER

3 12-04-2023 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 connection with Sahebganj P.S. Case No. 354 of 2021 dated 20.07.2021 registered for the offences punishable u/ss 20 and 22 of the N.D.P.S. Act.

As per the prosecution case, during the course of patrolling, the police saw a car coming from the opposite direction at a high speed and a signal was given to stop the vehicle but two miscreants got down from the car and managed to escape who were identified by a local chowkidar as Ram Ekbal and Vikash



Kumar. On search, three packets of *Ganja* weighing 30 kgs were recovered from the dickey of the said car.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case on suspicion. The petitioner has clean antecedent as stated at para 3 of the bail petition. Charge-sheet has already been submitted against the petitioner. The petitioner is languishing in jail custody since 25.07.2021.

Learned A.P.P. for the State as well as the C.G.C. for Union of India have vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is more than commercial quantity i.e. 30 Kgs of *Ganja*.

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 of 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.*”

Learned A.P.P. for the State has further submitted that the prayer of bail of the petitioner has already been rejected on merit by this Court vide order dated 08.08.2022 passed in Cr. Misc. No. 10588 of 2022.

Considering the aforesaid facts and circumstances as well as the recovery of the commercial quantity of Ganja from the conscious possession of the petitioner, I am not inclined to enlarge this petitioner, above named, on bail.

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

This application is rejected.

(Chandra Prakash Singh, J)

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