

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15065 of 2023

Arising Out of PS. Case No.-246 Year-2022 Thana- SUGAULI District- East Champaran

Dhananjay Giri @ Pradip Giri Son Of Harendra Giri R/V- Giri Tola, Bhada,
P.S- Harsidhi, Ps- Harsidhi Dist- East Champaran Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Advocate

For the Opposite Party/s : Mr.Ashok Kumar Singh, A.P.P

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

ORAL ORDER

2 10-05-2023 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 N.D.P.S No. 38 of 2022 (arising out of the Sugauli) P.S Case No. 246 of 2022 dated 27.05.2022 registered for the offences punishable under sections 399 and 402 of the Indian Penal Code, sections 25(1-B)(a), 26 and 35 of the Arms Act and sections 8 and 20 (b)(ii)(c) of the N.D.P.S Act.

As per the prosecution case, total 1 kg 624 grams of



charash was 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 accused in eight other criminal cases as stated in para 3 of the bail petition. The petitioner is in custody since 28.05.2022.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e., 1kg 624 grams of *charas*.

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 *charas* being commercial quantity which was recovered from the possession of the petitioner, 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 at the earliest.

The bail petition stands rejected.

(Chandra Prakash Singh, J)

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