

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 26274 of 2023

Arising Out of PS. Case No.-124 Year-2022 Thana- BAISI District- Purnia

SWADESH DEB BARMA @ SODESH DEB VERMA S/O RAVINDRA
DEB BARMA Resident of Village- Chandradhan Para, P.S.- Kalyanpur,
District- Teliya Muda State- Tripura.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : MsSachina, Advocate

For the Opposite Party/s : Mr Shantanu Kumar, APP

CORAM: HONOURABLE MR JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 24-05-2023 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 Additional Public Prosecutor (for brevity, **APP**) appearing for the State of Bihar.

The petitioner has preferred this application for grant of regular bail in connection with Baisi Police Station (for brevity, **PS**) Case No 124 of 2022 (The Narcotic Drugs and Psychotropic Substances (for brevity, **NDPS**) Case No 37 of 2022 registered for the offence punishable under Sections 8/20 (b) (ii) (c)/25/29 of the NDPS Act, 1985.

As per the prosecution case, on seeing the police, the



petitioner and co-accused person started fleeing away but they were apprehended by the police. On search of the said vehicle, total 75.08 Kgs of **Ganja** kept in 11 packets was recovered.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent, as stated in paragraph 3 of the bail petition. It is further submitted that the petitioner was neither the driver nor the owner of the said vehicle. He is in custody in this case since 31.03.2022.

Learned APP has vehemently opposed the bail petition of the petitioner. It is submitted that the recovered **Ganja** is of commercial quantity i.e., 75.08 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 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 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 directed to expedite the trial and conclude the same at the earliest.

The bail petition stands rejected.

(Chandra Prakash Singh, J)

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