

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26096 of 2023**

Arising Out of PS. Case No.-1 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- Patna

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NAGENDRA SINGH S/O LATE MAHENDRA SINGH Resident of Village
and Post- Bakhorapur, P.S.- Barhara- Bhojpur

... .. Petitioner/s

Versus

1. THE UNION OF INDIA NEW DELHI
2. THE STATE OF BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Singh
For the Opposite Party/s	:	Mr. Dr. Krishna Nandan Singh (Asg)
For the Union of India	:	Mr. Awadesh Kumar Pandey
		Mr. R.K. Sharma

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**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
counsel for the Union of India as well as learned counsel for the
State.

The petitioner has preferred this application for grant
of regular bail in connection with Special (N.D.P.S.) Case No.
10 of 2017 arising out of F. No-NCB/PZU/V/01/2017 dated
17.01.2017 registered for the offences punishable u/s 8/20 (C) of
the N.D.P.S. Act.

As per the prosecution case, on information, a truck
was intercepted at Vaishali petrol pump and two persons got



down from the truck and on being asked, they disclosed their names as Lal Bahadur Chaudhary (appears to be the driver) and Nagendra Singh (the petitioner) who was sitting beside the co-accused, Lal Bahadur Choudhary. On being asked, the petitioner and the co-accused, namely Lal Bahadur Chaudhary confessed that there was *ganja* in the said sacks. On search, total 3284.220 Kgs. of *ganja* kept in 110 nylon sacks was recovered from the *dalla* of the said truck bearing Reg. No. JH10s-8855.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Learned counsel has further submitted that only three witnesses have been examined by the prosecution as yet. The said fact shows that there is delay in the disposal of the said case and the petitioner is in custody for over six years. Similarly situated co-accused has already been granted bail by the Co-ordinate Bench of this court *vide* order dated 04.01.2023 passed in Cr. Misc. No. 3945 of 2022. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 17.01.2017. Learned counsel has placed the reliance on the judgment of the Supreme Court in the case of **Mohd. Muslim @ Hussain vs. the State (NCT of Delhi)** passed in **Criminal Appeal No. 943 of 2023**, wherein the Apex



Court has laid down the law for consideration in the matter of grant of bail for offences under the NDPS Act, relevance extract of which reads as follows;

“ The standard to be considered therefore, is one, where the court would look at the material in a broad manner, and reasonably see whether the accused's guilt may be proved. The Judgments of this court have, therefore, emphasized that the satisfaction which courts are expected to record, i.e., that the accused may not be guilty, is only prima facie, based on a reasonable reading, which does not call for meticulous examination of the materials collected during investigation (as held in Union of India v. Rattan malik¹⁹). Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.”

Learned counsel for the Union of India as well as learned counsel for the State vehemently opposed the bail



petition of the petitioner and submitted that the seized *ganja* is commercial quantity which was recovered from the conscious possession of the petitioner and the recovery is of a huge quantity.

Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Patna in connection with Special (N.D.P.S.) Case No. 10 of 2017 arising out of F. No-NCB/PZU/V/01/2017, with the condition:-

1. The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the petitioner is liable to be cancelled.

Learned trial court is directed to expedite the trial and conclude the same at the earliest.

The application stands allowed.

(Chandra Prakash Singh, J)

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