

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28786 of 2023

Arising Out of PS. Case No.-381 Year-2019 Thana- BARACHATTI District- Gaya

RAJESH YADAV SON OF TULSI YADAV @ TULSI PRASAD YADAV
Resident of Village-Samargarhi, PS-Tankuppa, Distt-Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No2, Advocate

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

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

ORAL ORDER

4 28-06-2023 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. Case No. 58 of 2019 (S.J) arising out of Barachatti P.S. Case No. 381 of 2019 dated 24.08.2019 registered for the offences punishable u/ss 20 and 22 of the Narcotic Drugs Psychotropic Substance Act.

As per the prosecution case, a sack of *Ganja* weighing 25 Kgs was recovered from the cabin and two sacks of *Ganja* weighing 50 kgs were recovered from the container of the truck



bearing Reg. No. WB73W-6491 which was being driven by the petitioner.

Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The Charge-sheet has already been submitted in this case. Learned counsel has further submitted that the trial has not been concluded within the period of four months as directed by this Hon'ble Court vide order dated 16.08.2022 passed in Cr. Misc. No. 8483 of 2022. The petitioner has got clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 24.08.2019.

Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized *Ganja* is of commercial quantity i.e. 75 kgs. Earlier three previous regular bail petitions of the petitioner have been rejected by the different Co-ordinate Benches of this Hon'ble Court passed in Cr. Misc. No. 78058 of 2019, Cr. Misc. 36953 of 2020 and Cr. Misc. No.8483 of 2022. In the said Cr. Misc. 36953 of 2020, the learned Court was directed to take all effective steps to conclude the trial of the petitioner within nine months and if the trial of the petitioner is not concluded within the aforesaid nine months, the petitioner would be at liberty to



renew his prayer for bail.

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* i.e. 75 kgs from the conscious possession of the



petitioner, I am not inclined to enlarge the petitioner on bail.

Further, the Superintendent of Police, Gaya and the District Magistrate, Gaya are directed to produce the IO of this case before the court concerned for deposition on the date fixed.

Let a copy of this order be sent to the concerned.

However, learned trial court is further directed to expedite the trial and conclude the same preferably within four months from the date of receipt of this order to the court concerned.

The application stands rejected.

(Chandra Prakash Singh, J)

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