

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40181 of 2023

Arising Out of PS. Case No.-198 Year-2022 Thana- BAISI District- Purnia

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Ram Kumar Yadav S/O Tuntun Ray R/O Village- Kutubpur Khalsa, Ps.
Bidupur, Dist. Vaishali

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Mahendra Thakur

For the Opposite Party/s : Mr.Satya Nand Shukla

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

ORAL ORDER

2 25-07-2023 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.

2. Heard learned counsel for the petitioner and learned A.P.P for the State.

3. The petitioner has preferred this application for grant of regular bail in connection with Special N.D.P.S P.S Case No. 62 of 2022 arising out of Baisi P.S Case No. 198 of 2022 dated 21.05.2022 registered for the offence punishable under Sections 8 and 20(b)(ii)(c) and 25 of the N.D.P.S. Act

4. As per the prosecution case, on seeing the police, two miscreants boarded on the Indica vehicle bearing No. WB-74Z/8042 started to flee away but they were apprehended by the



police who disclosed their names as Ram Kumar Yadav (the petitioner) and Reeta Kumar. On search, 32.286 kg *ganja* was recovered from the said vehicle.

5. 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 has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 22.05.2022.

6. 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., 32.286 kgs of *Ganja* which was recovered from the said vehicle. It is further submitted that the petitioner was one of the occupants of the said car and was arrested on the spot. The petitioner has been in custody for over one year. Hence, it is not a prolonged incarceration.

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.*”

7. Considering the aforesaid facts and circumstances of the case as well as the recovery of the commercial quantity of *ganja* from the possession of the petitioner and finding no merit in the contention of learned counsel for the petitioner, I am not inclined to enlarge this petitioner above-named on bail.

8. Learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

9. The bail petition stands rejected.

(Chandra Prakash Singh, J)

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