

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43847 of 2023**

Arising Out of PS. Case No.-10 Year-2022 Thana- MUFFASIL District- Aurangabad

MUKESH PATEL Son of Late Krishna Patel Resident of village - Mauna
Mishra Toli Korar ward no. 35, P.S. - Chapra Town, Distt. - Saran (Chapra)
... .. Petitioner/s

Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sachida Nand Rai

For the Opposite Party/s : Mrs.Asha Devi

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

ORAL ORDER

- 3 09-08-2023 1. 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 Aurangabad Muffasil P.S. Case No. 10 of 2022 dated 9.1.2022 registered for the offence punishable u/s 8 and 20(b)(ii)(c) of the N.D.P.S. Act.
4. As per the prosecution case, on search 22.8 kgs of Ganja was recovered from the Pick-up which was being driven by the petitioner.
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 no concern with



the alleged recovery. The petitioner is not the owner of the vehicle. The petitioner is accused in two other criminal cases as stated in para 3 of the bail petition. The petitioner is in custody since 10.1.2022 i.e. for more than one year and six months.

6. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is of commercial quantity i.e. 22.8 kgs of Ganja and the prayer of bail of the petitioner has already been rejected on merit by this Court vide order dated 23.8.2022 passed in Cr. Misc. No. 15903 of 2022. It is submitted that the trial court has prayed to dispose this case further within a period of four months vide Letter No. 234 of 2023 dated 20.7.2023.

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 is of commercial quantity from the conscious possession of the petitioner and finding no merit in the contention of the learned counsel for the petitioner, I am not inclined to enlarge the petitioner on bail.

8. Learned Trial Court is directed to expedite the trial and conclude the same further within a period of six months from the date of receipt of this order.

9. This bail application is rejected.

(Chandra Prakash Singh, J)

Ajay Singh/-

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