

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48147 of 2023**

Arising Out of PS. Case No.-466 Year-2021 Thana- PATLIPUTRA District- Patna

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Amit Kumar Singh @ Viru @ Shekhar Son Of Late Vijay Kumar Singh Resident Of 3rd Floor, F Nandan Residency, Navadih, P.S. - Dhanbad, Distt. - Dhanbad (JHARKHAND)

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Niraj Gopal Sharan, Advocate
For the Opposite Party/s : Mr.Dilip Kumar No. 1, APP

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

ORAL ORDER

3 09-08-2023 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 Patliputra Thana P.S. Case No. 466 of 2021 dated 15.09.2021 registered for the offences punishable u/ss 20(b)(ii)(c) of the N.D.P.S. Act and u/ss 25(1-b)/ 26/ 35 of the Arms Act.

4. As per the prosecution case, during the vehicle checking, the police personnel signalled to stop the Swift car but the driver veered the car across east of service lane of New Patliputra Colony on Atal Path then the police intercepted the



said car and caught three persons. They disclosed their name as Rahul Kumar, Rishi Sardar and Amit Kumar Singh (petitioner). On search, one pistol and two cartridges loaded in its magazine, one mobile and Rs. 1000/- were recovered from the possession of the co-accused Rahul Kumar. One pistol and four cartridges loaded in its magazine, two mobile and Rs. 500/- were recovered from the possession of the co-accused Rishi Sardar and one pistol and three cartridges loaded in its magazine were recovered from the possession of the petitioner and 23.8 Kgs ganja was also recovered from the dicky of the said car.

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 possession of the petitioner. The petitioner is accused in four other criminal cases as stated in para 3 of the bail petition. The petitioner is in custody since 16.09.2021

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. 23.8 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 vehicle and was arrested on the spot. The petitioner has



been in custody for less than two years. 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 conscious 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. Accordingly, his prayer for grant of bail is rejected.

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

(Chandra Prakash Singh, J)

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