

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53386 of 2023

Arising Out of PS. Case No.-173 Year-2023 Thana- AHIYAPUR District- Muzaffarpur

1. RAHUL HUSSAIN son of Noor Islam @ Nr Islam @ Nor Islam Village-
Dinhatta Ps- Sahebganj Dist- Kuch Bihar W.B
2. Masid Ul Haque @ Masid Ul Haque son of Rafiul Mian village- Atiyabari
Ps- Sahebganj Dist- Kuch Bihar W.B

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Suman

For the Opposite Party/s : Mr.Anish Chandra

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

ORAL ORDER

2 25-08-2023 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

2. The petitioners have preferred this application for
grant of regular bail in connection with Ahiyapur P.S. Case No.
173 of 2023 dated 3.2.2023 registered for the offence punishable
u/s 8 and 20(b)(ii)(c) of the N.D.P.S. Act.

3. As per the prosecution case, on search, 1.32.535
quintal Ganja was recovered from the XUV 500 Car bearing
Registration No. WB-74Y -5554 which was detained by the
police. Three persons boarded in the said car were also found
and they tried to flee away but were apprehended who disclosed
their names as Rahul Hussain, Chandan Biswas and Masid Ul



Haque.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and has falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The petitioners have no concern with the alleged recovery. The petitioners have clean antecedent as stated in para 3 of the bail petition. The petitioners are in custody since 4.2.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioners by submitting that the seized contraband is of commercial quantity i.e. 1.32.535 quintal Ganja. The petitioners were the occupants of the said car and were arrested at the spot.

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.”*

6. Considering the aforesaid facts and circumstances of the case as well as the recovery is of commercial quantity from the conscious possession of the petitioners and finding no merit in the contention of the learned counsel for the petitioners, I am not inclined to enlarge the petitioners on bail.

7. Learned Trial Court is directed to expedite the trial and conclude the same within one year.

8. This bail application is rejected.

(Chandra Prakash Singh, J)

Ajay Singh/-

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