

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64658 of 2022**

Arising Out of PS. Case No.-124 Year-2021 Thana- TETERHAT District- Lakhisarai

Jitendra Pandey Son Of Late Suresh Pandey R/O Vill.- Jaitpur, P.S.- Barahiya,
Distt.- Lakhisarai

... .. Petitioner/s

Versus

1. The Union Of India Through Narcotis Control Bureau, Patna Bihar
2. The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Siddharth Harsh, Advocate
For the Opposite Party/s	:	Mr. Umanath Mishra, A.P.P
For the Union of India	:	Mrs. Shail Kumar, C.G.C

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

ORAL ORDER

2 23-03-2023 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 a case registered u/s 8, 20(b)(c)(ii), 25 and 29 of the N.D.P.S. Act.

As per the prosecution case, total 20.09 kg *ganja* was recovered from the bag of the petitioner and 6.482 kg *ganja* was recovered from the bag of the co-accused person, Krishna Kumar.



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 about the alleged recovery. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 27.11.2021.

Learned A.P.P. for the State as well as the C.G.C for Union of India have vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is more than commercial quantity i.e. 20.09 Kg of *ganja*.

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 the commercial quantity of *ganja* from the possession of the petitioner, I am not inclined to enlarge this petitioner above-named on bail.

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

The bail petition stands rejected.

(Chandra Prakash Singh, J)

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