

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8632 of 2024

Arising Out of PS. Case No.-142 Year-2023 Thana- PURNEA SADAR District- Purnia

Md. Akmal Raza @ Akmal Raza S/O Md. Shabuddin R/O Village- Lalbagh
Purnea City, Ward No. 40, P.S- Sadar, Distt.- Purnea.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Sinha, Adv.

Mr. Rajiv Kumar Singh, Adv.

For the Opposite Party/s : Mr. Rajendra Singh Shastri, APP

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

ORAL ORDER

2 02-02-2024 Heard learned counsel for the petitioner and learned
A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Special (N.D.P.S Act) Case No. 34 of 2023 arising out of Sadar P.S. Case No. 142 of 2023 dated 18.02.2023 registered for the offences punishable u/ss 8(c) and 21(b) of the N.D.P.S. Act.

3. As per the prosecution case, total 250 grams of Smack kept in four packets was recovered from the house (bedroom) of the petitioner.

4. 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. It is further submitted that the petitioner was not present in his house and he was not arrested on the spot from where the said recovery was made. It is further submitted that two persons were already present in the said house. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 19.02.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the prayer of bail of the petitioner has already been rejected on merit by this Court vide order dated 07.07.2023 passed in Cr. Misc. No. 36443 of 2023. Learned counsel has further submitted that the seized contraband is of commercial quantity i.e. 250 grams of Smack which was recovered from the house of the petitioner.

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 of commercial quantity i.e. 250 grams of Smack from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

The application stands rejected.

(Chandra Prakash Singh, J)

Gautam/-

U		T	
---	--	---	--

