

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16325 of 2024

Arising Out of PS. Case No.-640 Year-2023 Thana- Excise P.S. District- Nawada

Vikram Kumar, age 32 years, Gender-Male, Son of Shri Lakhan Singh,
Resident of village- Baliya Bujurg, P.S. Akbarpur, District- Nawada.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Economic Offence, Dept., Bihar, Patna.

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Aaruni Singh, Advocate
For the E.O.U.	:	Mr. V.N.P. Sinha, Sr. Advocate and Mr. Vijay Anand, Advocate
For the State	:	Mr. Murli Dhar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

7 31-07-2024 Heard learned counsel for the petitioner, learned counsel for the E.O.U. and learned A.P.P. for the State.

2. The petitioner seeks bail in connection with Special (N.D.P.S.) No. 10 of 2023, arising out of Nawada (Excise) Case No. 640 of 2023 dated 01.08.2023 registered for the offences punishable under Sections 8, 20(b)(ii)(a) and 27 of the N.D.P.S. Act.

3. As per the prosecution case, total 94.133 kgs.,



Ganja is said to have been recovered from the Tata Magic Pick-up Van and the petitioner was driving the said vehicle.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. It is submitted that nothing was recovered from the conscious possession of the petitioner. The petitioner is the driver of the vehicle in question. There is no statutory compliance of Sections 43, 50 and 55 of the N.D.P.S. Act. The seized contraband is commercial quantity. The petitioner has two criminal antecedents as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 02.08.2023.

5. Learned A.P.P. for the State and learned counsel for the E.O.U. have vehemently opposed the bail petition of the petitioner and submitted that the petitioner is named in the F.I.R. and a huge quantity of Ganja i.e., 94.133 kgs., was recovered from the Tata Magic Pick-up Van which was driving by the petitioner. The petitioner had no valid authorization for keeping the said contraband. The said vehicle alongwith ganja was found in the possession of the petitioner.

6. 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.

7. 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.”

8. Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity of ganja from the possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Special (N.D.P.S.) No. 10/2023, arising out of Nawada (Excise) Case No. 640 of 2023, pending in the court of learned District and Sessions Judge, Nawada.



9. The application stands rejected.

(Chandra Prakash Singh, J)

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