

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18796 of 2024

Arising Out of PS. Case No.-10 Year-2019 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Bhagalpur

MILAN YADAV SON OF LATE KARANBIR YADAV R/O-CHUKTI, P.S.-
MANSI, DISTT.-KHAGARIA

... .. Petitioner/s

Versus

THE NARCOTICS CONTROL BUREAU, PATNA BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Rajesh Pandey
The U.O.I.	:	Mrs. Shail Kumari
For the Opposite Party/s	:	Mr.Dr. K.N Singh (Asg)

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 23-09-2024 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the U.O.I. and learned A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with NCB No. 10 of 2019, NDPS Case No. 07 of 2019 dated 29.04.2019 registered for the offences punishable u/ss 20 and 29 of the NDPS Act.

3. As per the prosecution case, total 581 kgs. Ganja was recovered from the truck.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is neither the owner nor the driver of the said vehicle. Nothing has been recovered from the conscious



possession of the petitioner. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 29.04.2019. Learned Trial Court has reported that vide letter no. 156 dated 19.08.2024 that the charge has been framed against four accused persons namely, Mithlesh Yadav, Milan Yadav, Lakhwinder Singh and Sukhwinder Preet Singh on 06.12.2019, out of seven charge-sheeted witnesses only three prosecution witnesses have been examined till date. Learned counsel has further submitted that there is delay at the stage of prosecution witnesses. Learned counsel has placed reliance on the judgement of Supreme Court in the case of **Rabi Prakash vs. The State of Odisha in Special Leave to Appeal (Crl.) No(s). 4169 of 2023** has held that *“As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.”*



5. Learned counsel appearing on behalf of the U.O.I. as well as learned A.P.P for the State has vehemently opposed the bail petition of the petitioner and stated that the petitioner had no valid authorization for keeping the said contraband. The seized contraband is commercial quantity.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Bhagalpur in connection with Darihat P.S. Case No. 37 of 2024, with the condition/s:-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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