

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22690 of 2024

Arising Out of PS. Case No.-27 Year-2023 Thana- D.R.I District- Patna

Moksed Ali Son Of Kuddus Ali Resident Of Village- Chilkhana, P.S.-
Tufanganj, District -Coochbehar, West Bengal

... .. Petitioner/S

Versus

The Union Of India Through The Directorate Of Revenue Intelligence,
Regional Unit, Patna Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Avinash Kumar Singh, Adv.
For the D.R.I. : Mr. Anshuman Singh, Sr. Sc. DRI.

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

ORAL ORDER

5 09-09-2024 Heard learned counsel for the petitioner and learned
counsel for the D.R.I.

2. The petitioner has preferred this application for grant of regular bail in connection with Special (NDPS) Case No. 15(A) of 2023 arising out of DRI, Patna Unit Case No. 27 of 2022-23, registered for the offences punishable u/ss 20(b)(ii) (C), 25 & 29 of the NDPS Act.

3. Total 263.140 Kgs ganja was recovered from a Bolero Pick-Up van.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. Nothing has been recovered from the conscious possession of the petitioner. The petitioner is not the owner of the vehicle in question. The petitioner is in custody



since 04.02.2023.

5. Learned counsel for the D.R.I. vehemently opposed the bail petition of the petitioner. It is further submitted that the recovery has been made from the Pick-Up van which was being driven by the petitioner and he was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e. 263.140 Kgs. ganja and the petitioner had no valid authorization for keeping the same. The said contraband was found in possession 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 vs. Mohit Aggrawal 2022 SCC online SC**



891 has held that “The length of the period of his custody of 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 finding substance in the contention of learned counsel for the D.R.I. and the recovery of commercial quantity from the conscious possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Special (NDPS) Case No. 15(A) of 2023 arising out of DRI, Patna Unit Case No. 27 of 2022-23 pending in the court of learned Additional District & sessions Judge, XVII, Patna.

7. Learned court below is directed to conclude the trial of the petitioner at the earliest.

(Chandra Prakash Singh, J)

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