

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30030 of 2024**

Arising Out of PS. Case No.-18 Year-2022 Thana- D.R.I District- Muzaffarpur

Rahul Kumar Sahni S/O Dhaneshwar Sahni R/O Village- Jagdishpur, P.S-
Dariyapur, Distt.- Saran, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Union Of India New Delhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dr. Bipin Chandra, Advocate
For the Opposite Party/s : Mr. Tarun Prasad Mandal, A.P.P.

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

ORAL ORDER

11 19-09-2024 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 N.D.P.S Case No. 53 of 2023/D.R.I Case No. 18 of 2022-23 dated 30.10.2022 registered for the offence punishable under Sections 20, 25 and 29 of the N.D.P.S. Act.

3. As per the prosecution case, total 283.310 kgs of *ganja* was recovered from the truck. The petitioner and the co-accused Bablu Kumar were found sitting in the cabin of the said truck.

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 is the driver of the said vehicle and driver can be changed at any time. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 31.10.2022.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e., 283.310 kgs of *Ganja* which was recovered from the said vehicle and the petitioner had no valid authorization for keeping the same. It is further submitted that the petitioner was one of the occupants of the said vehicle and was arrested on the spot. It is further submitted that the bail application of the petitioner was earlier rejected vide order dated 02.08.2023 passed in Cr. Misc No. 46416 of 2023.

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 the commercial quantity of *ganja* from the conscious possession of the petitioner and finding no merit in the contention of learned counsel for the petitioner, I am not inclined to enlarge this petitioner above-named on bail.

7. The bail petition stands rejected.

Aman Kumar/-

(Chandra Prakash Singh, J)

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