

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27639 of 2024

Arising Out of PS. Case No.-77 Year-2023 Thana- SUGAULI RAIL P.S. District- West
Champaran

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Mintu Devi @ Mithu Devi Wife of Rakesh Sahani Village Balwa PS Lalganj
Dist Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aditya Nath Jha, Adv.

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary, APP

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

ORAL ORDER

5 29-11-2024 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 Rail Sugauli P.S. Case No. 77 of
2023 dated 07.12.2023 registered for the offence/s punishable u/s
8/20(b)(ii)(B) of N.D.P.S. Act.

3. As per the prosecution case, total 1.5 Kg Charas and a
mobile phone were recovered from the possession 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. The charge-sheet has already been submitted



against the petitioner. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is a lady and she is in custody since 07.12.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. The seized contraband is commercial quantity i.e. 1.5 Kg of Charas. The accused at this stage cannot be presumed to be 'not guilty' of the offence that she is charged with. The petitioner had no valid authorization for keeping the same.

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 from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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