

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26786 of 2024

Arising Out of PS. Case No.-166 Year-2023 Thana- DARIHAT District- Rohtas

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Dhirendra Kumar Son of Arjun Ram Resident of Village- Takiya, Ward No. 01, P.S.- Sasaram (Nagar), Dist.- Rohtas

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar

For the Opposite Party/s : Mr.Dr.Mrityunjaya Kr.Gautam

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 25-07-2024 Heard learned counsel for the petitioner and learned counsel for the Informant as well as A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection Darihat P.S. Case No. 166 of 2023 dated 15.09.2023 registered for the offence/s punishable u/s 8/20 (b) (ii)(c), 25, 29 of N.D.P.S. Act.

3. As per the prosecution case, total 45.34 kgs. Ganja was recovered from the Tempo.

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 petitioner is neither the owner nor the driver of the said vehicle. The petitioner has no



concern with the alleged recovery. The petitioner has three criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 16.09.2023.

5. Learned counsel for the Informant as well as learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner.. The recovery was made from the possession of the petitioner who was sitting in the said vehicle. The seized contraband is commercial quantity i.e. 45.34 kgs Ganja. The petitioner had no any valid authorization for keeping the said contraband.

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

9. The application stands rejected.

(Chandra Prakash Singh, J)

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