

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30754 of 2024

Arising Out of PS. Case No.-189 Year-2022 Thana- BARACHATTI District- Gaya

VIKASH KUMAR SON OF MAHENDRA YADAV Resident of Village -
Sandeshwar, P.S. - Fatehpur, District - Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prem Ranjan Kumar

For the Opposite Party/s : Mr.Bhanu Pratap Singh

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

ORAL ORDER

4 05-09-2024 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. 9 of 2022 arising out of Barachatti P.S. Case No. 189 of 2022, dated 04.03.2022 registered for the offence/s punishable u/s 18, 20, 22 of N.D.P.S. Act.

3. As per the prosecution case, on seeing police, a miscreant sitting on a motorcycle started fleeing away who was apprehended. In the meantime, the driver and Khalasi of the container (truck) wanted to run away who were also apprehended. On being asked, they disclosed their names as Chhotu, owner of the motorcycle, Gautam, driver of the container and Vikash Kumar (petitioner), Khalasi of the container. On search, 3 kgs. opium was



recovered from the dickey of the said motorcycle and three kgs. opium kept in four plastic packets was recovered from the box made below the seat of the cabin of the said container.

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 earlier the bail application of the petitioner has been rejected by this court vide order dated 13.12.2022 passed in Cr. Misc. No. 50640 of 2022 with direction to the learned trial to expedite the trial and conclude the same preferably within nine months. Thereafter, vide order dated 27.06.2024 passed in Cr. Misc. No. 30754 of 2024, a report regarding the present stage of trial was called for and in the light of the said order, a letter regarding the same vide letter no. 54 of 2024 dated 04.07.2024 was sent to this court and it has been mentioned in the said letter that out of seven charge-sheeted witnesses only four witnesses have been examined uptill now. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 05.03.2022.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. The said contraband is of commercial quantity. The petitioner had no any valid authorization for keeping the same. It is further submitted that vide order dated



27.06.2024 passed in Cr. Misc. No. 30754 of 2024, a report regarding the present stage of trial was called for and in the light of the said order, a letter regarding the same vide letter no. 54 of 2024 dated 04.07.2024 was sent to this court and it has been mentioned in the said letter that out of seven charge-sheeted witnesses, only four witnesses have been examined uptill now and learned trial court expected that the trial would be concluded within a period of three months.

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 the recovery of commercial quantity 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)

guddukr/-

U		T	
---	--	---	--

