

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33798 of 2024

Arising Out of PS. Case No.-217 Year-2023 Thana- SURSAND District- Sitamarhi

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Ajay Kumar Sahni Son Of Vakil Sahni Resident Of Village - Chand Parsa,
Bhagwaliya, P.S. - Keshariya, District - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Prateek Tandon, Advocate

For the Opposite Party/s : Mr.Chandra Sen Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 14-05-2024 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 Sursand P.S. Case No. 217/2023 dated 30.04.2023 registered for the offence punishable u/s 414 of the Indian Penal Code and Sections 8(C), 20(b)(ii)(C) and 29 of the N.D.P.S. Act.

3. As per the prosecution case, As per the prosecution case, while the informant along with other police force was on patrolling duty at NH 227 and was checking the vehicle, a four wheeler came from the side of *Bhitha* which was stopped by the informant. On search, 2 kg *charas*, mobile phones and cash were recovered from the seized vehicle



(Mahindra SUV) and the petitioner and the co-accused persons were found sitting inside the said vehicle.

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. Learned counsel has submitted that the family members of the petitioner and the co-accused persons have filed a Cr.W.J.C No. 1290 of 2023 for issuance of an appropriate writ order or direction to make a proper investigation and take legal action against the concerned police officer who have illegally took their inmates along with S.U.V. vehicle bearing registration no. BR-05AS-1539 on 28.04.2023 at 4 P.M. and by lodging the false F.I.R. dated 30.04.2023. The petitioner is owner of the said car. The petitioner is accused in three criminal cases out of which he is on bail in two cases as stated in para 3 of the bail petition. The petitioner is in custody since 01.05.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. 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 seized contraband is commercial quantity i.e., 2 kgs of *charas*.



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 finding substance in the contention of learned counsel for the State 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 Sursand
P.S. Case No. 217/2023 pending in the court of learned
Sessions Judge (Special Judge), Sitamarhi.

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

(Chandra Prakash Singh, J)

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