

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38908 of 2024

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

Roshan Kumar S/o - Naresh Sahni Resident of village Chandparsa, P.S-
Keshariya, Dist- East Champaran at Motihari

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Niranjan Parihar

For the Opposite Party/s : Mr. Bishweshwar Ram

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

ORAL ORDER

3 12-09-2024 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 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, 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. The petitioner is not the owner of the said vehicle. The petitioner is accused in one criminal case 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.

(Chandra Prakash Singh, J)

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