

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41066 of 2024

Arising Out of PS. Case No.-353 Year-2023 Thana- BAISI District- Purnia

Rupali Heera Vishwas W/O- Vijay Vishwas @ Bijay Biswas R/O- Village-
Jasodanga, P.S.- Samuktala, Distt.- Alipur Dwar (W.B.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Saurav Anand, Advocate

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

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

ORAL ORDER

2 20-07-2024 Heard learned counsel for the petitioner and learned
A.P.P for the State.

3. The petitioner has preferred this application for grant of regular bail in connection with Baisi P.S. Case No. 353 of 2023 Special Case No. 120/23 dated 30.10.2022 registered for the offence punishable under Sections 8 and 20(b)(ii) and (c) of the N.D.P.S. Act

4. As per the prosecution case, total 25.570 kgs. *ganja* was recovered from the bag of the petitioner.

5. 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 has clean antecedent



as stated in para 3 of the bail petition. The petitioner is in custody since 29.08.2023.

6. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e., 25.570 kgs *Ganja* which was recovered from the possession 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. The petitioner has been in custody for less than one year. Hence, it is not a prolonged incarceration.

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.*”

7. Considering the aforesaid facts and circumstances of the case as well as the recovery of the commercial quantity of *ganja* from the possession of the petitioner and finding no merit in the contention of learned counsel for the petitioner, I am not inclined to enlarge this petitioner above-named on bail.

8. Learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

9. The bail petition stands rejected.

(Chandra Prakash Singh, J)

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