

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47304 of 2023**

Arising Out of PS. Case No.-124 Year-2021 Thana- TETERHAT District- Lakhisarai

JITENDRA PANDEY SON OF LATE SURESH PANDEY VILLAGE
JAITPUR, PS- BARAHIYA, DISTRICT- LAKHISARAI

... .. Petitioner/s

Versus

1. THE UNION OF INDIA THROUGH NARCOTICS CONTROL BUREAU,
PATNA, BIHAR BIHAR
2. The State of Bihar BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar, Adv.
For U.O.I.		Mr. Awadesh Kr. Pandey, Sr. C.G.C. Mrs. Shail Kumari, C.G.C. Mr. Lokesh, Adv.
For the Opposite Party/s	:	Mr.Dr. Krishna Nandan Singh (A.S.G)

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

ORAL ORDER

7 09-02-2024 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 N.D.P.S. Case No. 04 of 2022 arising out of Tetarhat P.S. Case No. 124 of 2021 dated 27.11.2021 registered for the offences punishable u/ss 8, 20(b)(c)(ii), 25 and 29 of the NDPS Act.

3. As per the prosecution case, 20.09 kgs. Ganja was recovered from the bag of the petitioner and 6.482 kgs. Ganja was recovered from the bag of the co-accused person, Krishna Kumar.



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. Learned counsel for the petitioner has further submitted that earlier the regular bail of the petitioner has been rejected by this court vide order dated 23.03.2023 passed in Cr. Misc. No. 64658 of 2022 and the trial court is directed to expedite the trial and conclude the same at the earliest and in the light of order dated 26.07.2023 passed in Cr. Misc. No. 47304 of 2023, a report has been sent vide letter No. 56 of 2023 in which it has been mentioned that out of five witnesses only one witness has been examined. Learned counsel has placed reliance on the judgement of Supreme Court in the case of **Rabi Prakash vs. The State of Odisha in Special Leave to Appeal (Crl.) No(s). 4169 of 2023** has held that *“As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three a half years in custody. The prolonged incarceration, generally militates against the most precious*



fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.” The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 27.11.2021.

5. Learned counsel for the U.O.I. as well as learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that earlier the regular bail of the petitioner has been rejected by this court vide order dated 23.03.2023 passed in Cr. Misc. No. 64658 of 2022.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Lakhisarai in connection with N.D.P.S. Case No. 04 of 2022 arising out of Tetarhat P.S. Case No. 124 of 2021, with the condition/s:-

(i). The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable



cause, the bail bond of the petitioner is liable to cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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