

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45009 of 2024

Arising Out of PS. Case No.-40 Year-2024 Thana- FULKAHA District- Araria

Md. Wakif Son Of Late Saiyad @ Late Seyad Resident Of Village- Pathraha
Ward No.12, Police Station- Ghurna, District- Araria

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr.Mukesh Kumar Rana
For the Opposite Party : Mr.Zainul Abedin

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

ORAL ORDER

2 16-07-2024 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 Fulkaha P.S. Case No. 40/2024 dated 22.03.2024 registered for the offences punishable u/s 8, 20(b)(ii)(c) of the N.D.P.S. Act.

3. As per the prosecution case, total 27 kgs. *ganja* kept in jute bag was recovered from the motorcycle which was being driven by the petitioner.

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 the driver of the



said motorcycle. The petitioner has three criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 23.03.2024.

5. 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. 27 kg *ganja*. The said *ganja* was recovered from the conscious possession of the petitioner who had no valid document.

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 recovery from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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