

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54937 of 2024

Arising Out of PS. Case No.-876 Year-2023 Thana- RAMKRISHNANAGAR District- Patna

Abhishek Kumar Gupta son of Jitendra Kumar Resident of Village- Naya Tola
Fulka, Po Ps- Jamalpur Dist- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv
	:	Mr. Satish Kumar Sinha, Adv
For the Opposite Party/s	:	Mr.Md. Mushtaque Alam, APP
	:	Ms. Sharda Kumari, APP

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

ORAL ORDER

2 08-08-2024 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 Ram Krishna Nagar P.S. Case No. 876 of 2023 dated 25.12.2023 registered for the offence punishable u/s 8(c), 21(c), 25, 29 of the N.D.P.S. Act

3. As per the prosecution case, total 506 grams of smack was recovered from the lap of the petitioner who was sitting in the car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is not the owner of the said vehicle and



he has no concern with the alleged recovery. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 26.12.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is the commercial quantity and the petitioner had no valid authorization for keeping the same.

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 of commercial quantity of smack from the possession of the petitioner, I am not inclined to enlarge the petitioner on bail and the same is rejected.

9. The application stands rejected.

(Chandra Prakash Singh, J)

Jyoti/-

U		T	
---	--	---	--

