

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60325 of 2024

Arising Out of PS. Case No.-123 Year-2023 Thana- BARAULI District- Gopalganj

Sanjeet Dubey @ Samjeet Dubey @ Sanjit Dubey Son Of Amla Dube
Resident Of Iswapur@Ishuapur, P.S. - Kuchaikot, District - Gopalganj

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Sumit Shekhar Pandey, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 26-10-2024 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 Barauli P.S. Case No. 123/2023 dated 17.03.2023 registered for the offence punishable under Sections 20, 22, 25 and 29 of the N.D.P.S. Act

3. As per the prosecution case, total 88 kgs. *ganja* was recovered from the tempo.

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 a driver of the said vehicle. The petitioner has clean antecedent as stated in para 3



of the bail petition. The petitioner is in custody since 17.03.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. As per the F.S.L. Report, the said contraband is *ganja*. Learned A.P.P. for the State has further submitted that the seized contraband is commercial quantity i.e., 88 kgs. *Ganja*. 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 no valid authorization for keeping the same.

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 recovery of commercial quantity of ganja 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 Barauli P.S. Case No. 123/2023 in Tr. No. 20/2023, pending in the court of learned Additional Sessions Judge-1, Gopalganj, Bihar.

7. Learned court below is directed to conclude the trial of the petitioner at the earliest.

(Chandra Prakash Singh, J)

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