

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56228 of 2024

Arising Out of PS. Case No.-33 Year-2023 Thana- PURAINI District- Madhepura

Rajesh Singh S/o Ram Chandra Singh R/o vill - Bhanu Nagar, Sevak Road,
ward no. 3, P.S. - Bhaktinagar Sadar Siliguri, Distt. - Jalpaiguri (W.B)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Amarnath Jha, Advocate

For the Opposite Party : Mr.Shyameshwar Dayal, APP

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

ORAL ORDER

4 18-10-2024 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 Puraini P.S. Case No. 33/2023 corresponding Spl. N.D.P.S. Case No. 17/2024 dated 13.02.2023 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 194.350 kgs. *Ganja* was recovered from the ambulance.

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 not the owner of



the said ambulance. The other co-accused persons have already been granted bail by this court *vide* order dated 07.03.2024 passed in Cr. Misc. No. 52601/2023. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 14.02.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e. 194.350 kgs. *ganja*. The petitioner was apprehended on the spot. The petitioner has no valid authorization for keeping the same. As per the F.S.L. Report, *ganja* is detected containing T.H.C. as their chief intoxicating ingredient. Earlier the bail petition of the petitioner has been rejected by the co-ordinate Bench of this Court *vide* order dated 29.01.2024 passed in Cr. Misc. No. 60990 of 2023. It is further submitted that no fresh ground has been submitted by the learned counsel for the petitioner.

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 ganja, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Puraini P.S. Case No. 33/2023 corresponding Spl. N.D.P.S. Case No. 17/2024, pending in the court of learned Additional Sessions Judge III cum Special Judge NDPS, Madhepura.

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

(Chandra Prakash Singh, J)

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