

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61126 of 2024

Arising Out of PS. Case No.-830 Year-2023 Thana- MUFFASIL District- West Champaran

Kasim Alam S/O Md. Kyamuddin Mian @ Kaimuddin Miyan R/O Village-
Chhawani Mehadiya Bari, P.S- Manuapul, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Adv
For the Opposite Party/s : Md. Fahimuddin, APP

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

ORAL ORDER

2 05-09-2024 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 Bettiah (Muffasil (Manuapul) P.S. Case No. 830 of 2023 dated 27.12.2023 registered for the offences punishable under Section 414 of the I.P.C., and Sections 8, 20(b)(ii)(c), 23(c) and 29 of the N.D.P.S. Act.

3. As per the prosecution case, one motorcycle bearing Registration No. BR22BD1672 was driven by the Kasim Alam (Petitioner) and on search, 05 kg., charas was recovered from the dicky of the said motorcycle and another



motorcycle bearing BR22AH7252 was driven by the co-accused Abdulgani Mian and Balister Miyan was a pillion rider and on search, 05 kg., charas was also recovered from the dickey of the said motorcycle.

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 has one criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 28.12.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity. The petitioner has no valid authorization for keeping the same. Learned APP for the State has placed reliance on the judgment in the case of **Hira Singh and Anr. Vs. Union of India and Anr, (2020)20 Supreme Court Cases 272** of Hon'ble Apex Court in which it is held that "weight of entire materials/ mixture along with neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity". The act of the petitioner amounts to clear violation of section 8 of the N.D.P.S. Act as it clearly prohibits possession of narcotic



substance except medical and scientific purposes.

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 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 Bettiah Muffasil (Manuapul) P.S. Case No. 830 of 2023, pending in the Court of learned Exclusive Special Judge, N.D.P.S, Bettiah, West Champaran.

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

(Chandra Prakash Singh, J)

Jyoti/-

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

