

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60937 of 2024

Arising Out of PS. Case No.-61 Year-2024 Thana- BIRPUR District- Supaul

Arvind Kumar Yadav @ Arvind Kumar S/O Late Jag Bahadur Yadav R/O
Village- Lalanpatti, P.S- Ratanpura, Distt.- Supaul.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv.
For the Opposite Party/s : Mr. Upendra Kumar, APP

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

ORAL ORDER

2 09-09-2024 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 Birpur P.S. Case No. 61 of 2024 dated 23.02.2024 registered for the offence punishable u/ss 8 and 20(b)(ii)(c) of the N.D.P.S. Act.

3. As per the prosecution case, total 51.750 Kgs ganja, three mobile phone, and one auto were recovered from the possession of the petitioner and the co-accused persons.

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 seized vehicle. The name of the petitioner has transpired in this case on mere



suspicion. It is further submitted that the petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 24.02.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. It is further submitted that the seized contraband is commercial quantity. The petitioner had 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 finding substance in the contention of learned counsel for the State and 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 Birpur P.S. Case No. 61 of 2024 pending in the court of learned Sessions Judge-cum-Special Judge NDPS Act, Supaul.

7. Accordingly, the application stands rejected.

(Chandra Prakash Singh, J)

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