

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.58153 of 2024**

Arising Out of PS. Case No.-614 Year-2023 Thana- BARACHATTI District- Gaya

Surendra Son of Shri Prabhunath Resident of Village- Murwan, P.S. Muffasil,  
District- Chapra, Saran At present resident of Sri Karanpur, P.S. Sri Ganga  
Nagar, District- Shri Ganga Nagar (Rajasthan)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner : Mr. Gajendra Kumar Singh, Advocate  
For the Opposite Party/ : Mr. Rina Sinha, APP

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

ORAL ORDER

2      27-08-2024                      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 614/2023 P.S. Case No. Barachatti dated 01.07.2023 registered for the offences punishable u/s 18, 20 and 22 of the N.D.P.S. Act.

3. As per the prosecution case, total 1835 Kgs. of *doda* was recovered from the truck.

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 neither the owner nor the driver of the said vehicle. On perusal of the seizure list it



appears that there is no proper compliance of section 42 and 50 of the N.D.P.S. Act. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 18.07.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the petitioner is driver of the said vehicle. It is further submitted that the seized contraband is commercial quantity i.e., 1835 kg of *doda* and 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, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with 614/2023 P.S. Case No. Barachatti pending in the court of learned Additional Sessions Judge 1<sup>st</sup>, Gaya.

7. This application stand rejected.

**(Chandra Prakash Singh, J)**

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