

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61871 of 2024

Arising Out of PS. Case No.-134 Year-2021 Thana- PIPRAKOTHI District- East Champaran

Rahul Sahani @ Sayam Babu Sahani @ Rakul Kumar Sahani Son of Late
Kamal Sahani @ Late Kamldeo Sahani Village- Vishanpur Dakashi, P.S.-
Pipra District -East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner : Mr.Rajesh Kumar

For the Opposite Party : Mr.Ram Sumiran Rai

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

ORAL ORDER

2 12-09-2024 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 N.D.P.S. Act No. 42/2021 arising out of Pipra Kothi P.S. Case No. 134/2021 dated 01.06.2021 registered for the offences punishable under Sections 8, 20(b)(ii)(c) of the N.D.P.S. Act and Sections 25(1-b)a, 26 and 35 of the Arms Act.

3. As per the prosecution case, 2.600kgs. Charas like narcotic substance and a country made pistol along with four live cartridges was recovered from the house of the petitioner

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 other co-accused person has already been granted bail by this court *vide* order dated 28.09.2022 passed in Cr. Misc. No. 37214/2022. The petitioner was not present at the spot. The petitioner has seven criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 14.06.2021.

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., 2.600kgs. Charas. The petitioner has no valid authorization for keeping the same.

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 been 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 N.D.P.S. Act No. 42/2021 arising out of Pipra Kothi, pending in the Court of learned Exclusive Special Judge No. II, N.D.P.S, Motihari, East Champaran.

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

(Chandra Prakash Singh, J)

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