

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60961 of 2024

Arising Out of PS. Case No.-22 Year-2014 Thana- BARACHATTI District- Gaya

Devki Prajapat @ Deoki Prajapat Son of Dumar Prajapat Resident of Vill-
Badki Chapi, P.S.- Barachatti, District- Gaya

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Praveen Kumar
For the Opposite Party : Mr. Anil Kumar Singh No. 1

**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 Barachatti P.S. Case No. 22/2014 dated 09.01.2014 registered for the offence punishable u/s 20 and 22 of the N.D.P.S. Act.

3. As per the prosecution case, total 550 kgs. *ganja* was recovered from the house of the petitioner and total 450 kgs. *ganja* was recovered from the house of the co-accused, Nunu Singh.

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. Learned counsel has submitted that three witnesses have been examined out of which one witness has been declared hostile. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 12.01.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that earlier the bail of the petitioner was rejected *vide* order dated 18.09.2023 passed in Cr. Misc. No. 26518/2023 and further stated that P.W. 3 has supported the prosecution story. It is further submitted that the seized contraband is commercial quantity i.e., 550 kgs *ganja* and 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 recovery of commercial quantity from the house of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Barachatti P.S. Case No. 22/2014 pending in the court of learned Additional District & Sessions Judge 1st, Sherghatti, Gaya.

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

(Chandra Prakash Singh, J)

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