

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.61074 of 2024**

Arising Out of PS. Case No.-126 Year-2024 Thana- BELA District- Sitamarhi

Rajesh Patel S/O Binay Patel @ Binak Patel @ Vinek Sarju Patel @ Venek  
Patel R/O Village - Bhagwatipur, P.S. - Bela, Dist. - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
  2. The Union of India through the Ministry of Home Affairs, New Delhi. Delhi
- ... .. Opposite Party/s

**Appearance :**

|                            |   |                                      |
|----------------------------|---|--------------------------------------|
| For the Petitioner/s       | : | Mr.Santosh Kumar, Adv.               |
| For the U.O.I.             | : | Mr. K. N. Singh, ASG                 |
|                            |   | Mr. Amitesh Kumar, Sr. Counsel (UOI) |
| For the Opposite Party/s : |   | Mr.Narsingh Tanti, APP               |

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

ORAL ORDER

2      09-09-2024                      Heard learned counsel for the petitioner, learned  
counsel for the U.O.I. and learned A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Bela P.S. Case No. 126 of 2024 dated 16.05.2024 registered for the offence punishable u/ss 8, 20(b) (ii)(c) of the N.D.P.S. Act.

3. As per the prosecution case, police apprehended the petitioner with auto. On search, 21.150 Kgs. Ganja was recovered from the possession of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is the auto driver and on the date of the incident, the petitioner was taking some people in his auto from Bhagwatipur to Parihar and during the checking of vehicle, the



police signaled the petitioner's auto to stop, the people in the auto jumped out and the petitioner was caught by police. The petitioner has no concern with the seized ganja. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 17.05.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. It is further submitted that the recovery has been made from the auto of the petitioner and he was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e., 21.150 Kgs. of *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 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 Bela P.S. Case No. 126 of 2024 pending in the court of learned Special Judge, NDPS, Act, Sitamarhi.

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

(Chandra Prakash Singh, J)

Gautam/-

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