

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62026 of 2024

Arising Out of PS. Case No.-18 Year-2024 Thana- KUWARI District- Araria

Santosh Mandal @ Santosh Son of Buchchan Mandal R/O Vil.- Dabhara
Khadi tola ward no. 9, P.S. - Tarabari, District- Araria

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mukesh Kumar Rana

For the Opposite Party/s : Mr.Md. Shakir Ahmad

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

ORAL ORDER

2 11-09-2024 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 Kuwari P.S. Case No. 18 of 2024 dated 14.05.2024 registered for the offence punishable u/s 18, 20(b) of the N.D.P.S. Act.

3. As per the prosecution case, total 78 kg ganja was recovered from the house of the co-accused *Vinod Tamta*. On the instance of the petitioner, total 41.200 kg ganja was recovered from the maize crops field.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. As per the prosecution case, 78 kg ganja has been



recovered from the house of the co-accused *Vinod Tamta*. And 41.200 kg ganja was recovered from the maize crops field situated behind the house of the co-accused *Munna Mandal*. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 15.05.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is the commercial quantity and the petitioner has no valid authorization for keeping the same. It is further submitted that the petitioner and the co-accused persons are member of gang which is run by the co-accused *Vinod Tamta* and they are indulge in the business of purchase and sell of ganja.

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 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 quantum of the recovery is commercial quantity, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Kuwari P.S. Case No. 18 of 2024, pending in the Court of learned Sessions cum the Special Judge N.D.P.S. Act, Araria.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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