

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63688 of 2024

Arising Out of PS. Case No.-61 Year-2024 Thana- BIRPUR District- Supaul

MITHUN YADAV @ MITHUN KUMAR YADAV Son of Chandradeep
Yadav @ Chandradev Yadav Resident of Village - Dhadha, Police Station -
Ratanpura, District - Supaul

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Arun, Adv.

For the Opposite Party/s : Mr.Uday Chand Prasad, APP

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

ORAL ORDER

2 01-10-2024 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 Birpur N.D.P.S.-13/24 arising
out of Birpur P.S. Case No. 61 of 2024 dated 23.02.2023 registered
for the offence punishable u/s 8, 20(b)(ii)(C) of the N.D.P.S. Act.

3. As per the prosecution case, the petitioner and the co-
accused persons were apprehended with auto vehicle. On search,
51.750 Kg. ganja was recovered from the said auto vehicle.

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. It is further submitted that the petitioner has no



concern with the alleged recovery. The petitioner is accused in one criminal case in which he is on bail as stated in para 3 of the bail petition. The petitioner is in custody since 24.02.2024.

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 conscious possession of the petitioner and he was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e., 51.750 Kg. of *ganja* and also submitted that the petitioner had no valid authorization for keeping the said contraband. The petitioner was one of the occupants of the said vehicle at the time of the alleged recovery.

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 N.D.P.S.-13/24 arising out of Birpur P.S. Case No. 61 of 2024 pending in the court of learned Addl. District & Sessions Judge-III, Supaul.

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

(Chandra Prakash Singh, J)

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