

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63602 of 2024

Arising Out of PS. Case No.-395 Year-2022 Thana- SURYAGARHA District- Lakhisarai

Parmanand Yadav @ Pramanand Yadav Son of Late Narayan Yadav Resident
of Village - Nista, P.S.- Surajgarha, District - Lakhisarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

For the Opposite Party/s : Mr. Anant Kumar 1, APP

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

ORAL ORDER

2 19-09-2024 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 Surajgarha P.S. Case No. 395 of 2022 dated 20.12.2022 registered for the offence punishable u/s 8, 20(b)(ii)(C) and 25 of the N.D.P.S Act.

3. As per the prosecution case, total 90 kgs of ganja was recovered from the petitioner's e-rickshaw and 380 kgs of ganja was recovered from fodder room of Dablu Yadav.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is owner of the e-rickshaw which was driven by the co-accused, Dablu Yadav. Nothing has been



recovered from the conscious possession of the petitioner. It is further submitted that the *bathan* from where the seized contraband was recovered belongs to co-accused Dablu Yadav. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 03.07.2024. The similarly situated co-accused has been granted regular bail by this Court vide order dated 21.07.2023 passed in Cr. Misc. No. 40714 of 2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. It is further submitted that the seized contraband is commercial quantity. The petitioner had no valid authorization for keeping the said contraband. Learned APP for the State also placed reliance on the judgment in the case of **Hira Singh and Anr. Vs. Union of India and Anr. (2020)20 Supreme Court Cases 272** of Hon'ble Apex Court has held that "weight of entire materials/mixture along with neutral material is to be considered for ascertainment of whether the quantity is "small quantity" or "commercial quantity".

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.



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.*”

7. 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 Surajgarha P.S. Case No. 395 of 2022 pending in the court of learned Sessions Judge, Lakhisarai.

8. The application stands rejected.

(Chandra Prakash Singh, J)

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