

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66566 of 2023

Arising Out of PS. Case No.-27 Year-2023 Thana- NARALI KALA KHURD District-
Aurangabad

=====

Istekhar Alam, aged about 44 years, Gender-Male, Son of Late Mahboob Alam, resident of Village-New Tetaria, Razzaque Bigha, P.S. Narari Kala Khurd, District-Aurangabad.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner : Mr. Tej Narayan Singh, Advocate

For the Opposite Party : Mr. Shailendra Kumar, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

7 30-04-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in Narari Kala Khurd P.S. Case No. 27 of 2023 dated 05.04.2023 registered for the offences punishable under Sections 15b, 17, 18b and 25 of the N.D.P.S. Act.

3. As per the prosecution case, on 05.04.2023, 3.5 kg., Doda, 10.950 kg. Opium (Afim), Rs. 1,20,000/- in cash, electronic weighing machine and mobile were recovered from the house of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in



this case. It is submitted that no independent witnesses of locality have come forward to support the prosecution case as alleged before the police. It is further submitted that neither the petitioner participated or involved in the present case nor recovered any material from his possession rather the alleged recovery was made from his house. It is further submitted that the police party without being warned forcibly entered the house of the petitioner and lifted 3 jar containing 'Bournvita' and after breaking lock of the 'Almirah', took Rs. 1,20,000/- and golden ornaments which were personal property of the family of the petitioner. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. He is in custody in this case since 06.04.2023.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. It is further submitted by learned A.P.P. for the State that the seized contraband is commercial quantity i.e., 10.950 kg opium. 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 Narari Kala Khurd P.S. Case No. 27 of 2023, pending in the court of learned Special Judge (N.D.P.S.)-cum-Ist Additional District and Sessions Judge, Aurangabad, Bihar.

7. The trial court is directed to conclude the trial of



the petitioner at the earliest.

8. The application stands rejected.

(Chandra Prakash Singh, J)

U.K./-

U		T	
---	--	---	--

