

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80678 of 2024

Arising Out of PS. Case No.-179 Year-2022 Thana- BHAPTIAHI District- Supaul

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Amod Kumar Yadav S/o- Krishnadev Yadav Village- Bhaptiyahi PS-
Bhaptiyahi District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nagendra Upadhyay, Adv.

For the Opposite Party/s : Mr. Umeshanand Pandit, APP

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

ORAL ORDER

2 04-12-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with Bhaptiyahi P.S. Case No. 179 of 2022 dated 29.12.2022 registered for the offences punishable under Sections 8, 20(c)(ii)A and 21(c) of Narcotics Drugs and Psychotropic Substances Act.

3. As per the prosecution case, total 114.800 Kg of ganja like substance was recovered from the house and backside of the house which was hidden under the straw of the petitioner and the co-accused, Vinod Kumar Yadav.

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. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. As per impugned order, the petitioner is in custody since 29.12.2022. The prayer for grant of regular bail of the petitioner has been rejected by the Co-ordinate Bench vide order dated 13.12.2023 passed in Cr. Misc. No. 41489 of 2023.

5. Learned A.P.P. for the State has opposed the bail petition of the petitioner and submitted that the petitioner is named in the FIR and there has been recovered of huge quantity of ganja like substance from the possession of the petitioner. It has further submitted that the seized ganja like substance comes within the purview of commercial quantity as per N.D.P.S. Act. During investigation several witnesses have also supported the prosecution case. The petitioner had no valid authorization for keeping the said 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 recovery of commercial quantity of ganja, I am not inclined to enlarge the petitioner above-named on bail.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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