

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10913 of 2024

Arising Out of PS. Case No.-170 Year-2023 Thana- DINARA District- Rohtas

Shiv Muni Yadava S/O- Late Indrasan Yadava @ Late Indrashan Singh
Resident Of Village- Mahrod @ Mahrorh, P.S.- Natwar District- Rohtas
(Sasaram), At Present Residing At Village- Dinara, Ps.- Dinara, District-
Rohtas.

... .. Petitioner/s

Versus

THE STATE OF BIHAR BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Manisha Prakash, Adv.

For the Opposite Party/s : Mrs. Sharda Kumari, APP

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

ORAL ORDER

4 19-06-2024 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 Dinara P.S. Case No. 170/2023
(NDPS) dated 23.04.2023 registered for the offence punishable u/s
20(b), (ii)(c)/22/25/27(a)/29 of the N.D.P.S. Act.

3. As per the prosecution case, total 70.369 Kgs. ganja
and Rs. 6,50,800/- in cash have been 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. Nothing has been recovered from the conscious possession
of the petitioner. Learned counsel has further submitted that the



brother of the petitioner Bashisth Yadav @ Bashisth Singh Yadav had separately filed a criminal writ application bearing Token No. Cr. WJC No. 89817/2023 in this Hon'ble Court for release of the amount of Rs. 6,50,800/- which has been seized considering the said amount is of the petitioner which is not the fact but the said amount was of his brother, Bashisth Yadav @ Bashisth Singh Yadav. It is further submitted that the petitioner has no concern with the alleged recovery. The petitioner is accused in one criminal case as stated in para 3 of the bail petition. The petitioner is in custody since 24.04.2023.

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 house of the petitioner and he was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e., 70.369 kgs of *ganja*.

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 Dinara P.S. Case No. 170/2023 (NDPS) pending in the court of learned Sessions Judge, Sasaram.

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

(Chandra Prakash Singh, J)

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