

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11530 of 2025

Arising Out of PS. Case No.-830 Year-2023 Thana- MUFFASIL District- West Champaran

Kasim Alam S/o Kaimuddin Miyan R/o vill - Mehidya Bari, P.S.- Manuapul
OP, Block Bettiah, West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar

For the Opposite Party/s : Mr.Umeshanand Pandit

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

ORAL ORDER

2 13-05-2025 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 Bettiah Muffasil Case No. 830 of 2023 dated 27.12.2023 registered for the offence punishable u/ss 8, 20(b)(ii)(C), 23(c), 29 of N.D.P.S. Act.

3. As per the prosecution case, the informant seized two motorcycles, one motorcycle bearing Registration No. BR22BD1672 was driven by the petitioner and on search, 05 kg., *Charas* was recovered from the *dickey* of the said motorcycle and another motorcycle bearing BR22AH7252 was driven by the co-accused Abdulgani Mian and Balister Miyan was a pillion rider and on search, 05 kg., *Charas* was also



recovered from the *dickey* of the said motorcycle.

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 said vehicle was being driven by the petitioner at the time of the alleged occurrence. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 28.12.2023.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail petition of the petitioner, who was the occupant of the said motorcycle from which the said contraband was recovered. The seized contraband is commercial quantity i.e. 5 kg Charas. 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 "Brown sugar/smack is usually made available in power form. The substances is only about 20 per cent heroin. The heroin is mixed with other substances like chalk powder, zinc oxide, because of these, impurities in the drug, brown-sugar is cheaper but more dangerous". It is further submitted that as per entry 23 of the list of NDPS Act, small quantity of Charas as defined is 100 gram and commercial quantity of Charas as defined is 1 kg.

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 Charas i.e., 5 kg from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

(Chandra Prakash Singh, J)

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