

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.13968 of 2025

Arising Out of PS. Case No.-214 Year-2024 Thana- BANJARIA District- East Champaran

Md. Wahab, Male, aged about 23 years, S/o- Sheikh Ansari, R/O- Jeetpur,
Ward No. 4, P.S.-Milan Chowk, District-Birgunj at Nepal

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Rasika, Advocate

For the Opposite Party : Mr. Bharat Bhushan, A.P.P.

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

ORAL ORDER

4 18-06-2025 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
Banjariya P.S. Case No. 214 of 2024 dated 17.08.2024
registered for the offences punishable under Sections 317(5) of
B.N.S., 2023 and Sections 8, 20(b)(ii) (C) of the N.D.P.S. Act.

3. As per the prosecution case, on 17.08.2024 at about
10.15 P.M., during the course of patrolling, police recovered
21.400 Gram Ganja (21 Kilo 400 Gram) from the car of the
petitioner.

4. Learned counsel for the petitioner has submitted that



the petitioner is innocent and has falsely been implicated in the present case. It is further submitted that no incriminating article has been recovered from the conscious possession of the petitioner. There is no statutory compliance under Sections 42 and 50 of the N.D.P.S. Act. The petitioner is the driver of the vehicle in question and he had no knowledge that the Ganja was kept in the said car. It is further submitted that Section 317(5) of the B.N.S., 2023 is a superaddition as ingredients of the same is not fulfilled and without there being any evidence of the same the prosecution on the basis of surmises and conjectures has alleged that the car in question was stolen property. The petitioner has clean antecedent as stated in paragraph no. 3 of the bail petition. The petitioner is in custody in this case since 18.08.2024.

5. Learned A.P.P. for the State has vehemently opposed the prayer for bail petition of the petitioner and has further submitted that the petitioner is named in the F.I.R. and the seized contraband is commercial quantity i.e., 21.400 Grams of Ganja which was recovered from his car and the petitioner has no any valid authorization for keeping the same. It is further submitted that this case comes under the N.D.P.S. Act and Drugs and Cosmetics Act.



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, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Banjariya P.S. Case No. 214 of 2024, pending in the court of learned Sessions



Judge-cum-Special Judge, East Champaran, Motihari.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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