

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14917 of 2025

Arising Out of PS. Case No.-84 Year-2024 Thana- GALGALIYA District- Kishanganj

Murad @ Md Murad S/O Noor Mohammad Resident of Village- Churli, P.S.-
Kurlikot, District- Kishanganj

... .. Petitioner/s

Versus

The State of Bihar Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Rajeev Ranjan

For the Opposite Party/s : Mr.Akbar Ali

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

ORAL ORDER

2 22-03-2025 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 Galgalia P.S. Case No. 84 of 2024 dated 27.10.2024 registered for the offence/s punishable u/ss 8 (c), 21 (c) of the N.D.P.S. Act.

3. As per the prosecution case, total 460.8 grams of brown sugar like substance, a silver weight machine, one mobile phone and a motorcycle were recovered from the possession 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 said vehicle was being driven by the petitioner at the time of the alleged



occurrence. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 28.10.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. The seized contraband is commercial quantity i.e. 460.8 grams of brown sugar like substance. 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 56 of the list of NDPS Act, small quantity of brown Sugar as defined is 5 gram and commercial quantity of brown sugar as defined is 250 gram.

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 brown sugar i.e. 460.8 grams from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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