

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15069 of 2025

Arising Out of PS. Case No.-217 Year-2023 Thana- SURSAND District- Sitamarhi

Ajay Kumar Sahni S/o Vakil Sahni Resident of Village- Chandparsa, PS-
Keshariya, Distt.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. N. K. Agrawal, Sr. Adv. Mr. Subodh Kumar Mishra, Adv. Mr. Saroj Kumar Choudhary, Adv.
For the Opposite Party/s :	Ms. Shaheen Begum, APP

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

ORAL ORDER

3 13-11-2025 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 Sursand P.S. Case No. 217 of 2023 dated 30.04.2023 registered for the offence punishable u/s 414 of the Indian Penal Code and Sections 8(c), 20(b)(ii)(c) and 29 of the N.D.P.S. Act.

3. As per the prosecution case, while the informant along with other police force was on patrolling duty at NH 227 and was checking the vehicle, a four wheeler came from the side of *Bhitha* which was stopped by the informant. On search, 2 kg *charas*, mobile phones and cash were recovered from the seized vehicle (Mahindra SUV) and the petitioner and the co-accused persons were found sitting inside the said vehicle.



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 submitted that the family members of the petitioner and the co-accused persons have filed a Cr.W.J.C No. 1290 of 2023 for issuance of an appropriate writ order or direction to make a proper investigation and take legal action against the concerned police officer who have illegally took their inmates along with S.U.V. vehicle bearing registration no. BR-05AS-1539 on 28.04.2023 at 4 P.M. and by lodging the false F.I.R. dated 30.04.2023. The petitioner is the owner of the said car. **As per the Letter No. 89/2025, dated 26.05.2025, the learned court below has reported that the case is pending at evidence stage and no any evidence has been adduced.** Learned counsel has further submitted that the trial is not likely to be concluded in near future. Learned counsel has placed reliance on the judgment of Supreme Court in the case of **Rabi Prakash vs. The State of Odisha in Special Leave to Appeal (Crl.) No(s) 4169 of 2023** has held that “ *As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent-State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner*



*is not guilty, the same may not be formed at this stage when he has already spent more than three a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.” Learned counsel has further submitted that only 1 witness out of 19 witnesses was examined in the aforesaid case. Learned counsel has further submitted that in the case of **Mohd Mulim @ Hussain vs. State (NCT of Delhi) Special Leave Petition (CRL.) No(s). 915 of 2023**, “the petitioner remained in custody for over 7 years and one witness was examined and 34 witnesses were yet to be examined.” The petitioner is accused in three criminal cases in which he is on bail as stated in para 3 of the bail petition. The petitioner is in custody since 01.05.2023 i.e. more than 2 years 6 months.*

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the regular bail application of the petitioner was earlier rejected by this court vide order dated 14.05.2024 passed in Cr. Misc. No. 33798 of 2024. It is further submitted that the petitioner was one of the occupants of the said vehicle and was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e., 2



kgs of *charas*. The petitioner had no valid authorization for keeping the seized contraband.

6. Considering the aforesaid facts and circumstances of the case as well as the period of custody, the petitioner above-named, is directed to be enlarged on bail on furnishing bail-bond of Rs.20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge/ Special Judge, Sitamarhi in connection with N.D.P.S. G.R. No. 30/23 arising out of Sursand P.S. Case No. 217 of 2023, with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

(ii) The petitioner is directed to cooperate in the trial before the learned court below.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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