

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20789 of 2025

Arising Out of PS. Case No.-4 Year-2024 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Bhagalpur

Diwakar Guha @ Dibakar Guha S/O Late Dilip Guha @ Late Dilip Kumar
Guha R/O Manatala Purbapara, P.S- Sidhai, Dist.- Tripura.

... .. Petitioner/s

Versus

The Union of India through N.C.B., Patna. Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Mishra
For the Opposite Party/s	:	Mr.Dr. Krishna Nandan Singh (A.S.G)
The UOI	:	Mr. Shail Kumari

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 21-08-2025 Heard learned counsel for the petitioner and learned
A.P.P for the State as well as learned counsel for the U.O.I.

2. The petitioner has preferred this application for grant of regular bail in connection with NDPS Case No. 28 of 2024 arising out of NCB Case No. 04 of 2024 registered for the offence/s punishable u/ss 20(b)(ii)(C)/ 25/29/8(c) of the NDPS Act.

3. As per the prosecution case, total 240 Kgs of Ganja was recovered from a truck which was kept in 24 packets under the Tahkhana of truck and the driver of the said truck disclosed that the receiver of said Ganja was Sujit Kumar, Bitish Kumar and Sanjay Rai who were scouting the truck in a white colour Mahedra Rarazo car bearing Registration No. BR01PK9506.



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. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 18.03.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. The petitioner had no any valid authorization for keeping the said contraband. The said offence is related to the offence of NDPS Act and the Drug and Cosmetic Act. It is further submitted that the apprehended co-accused persons confessed that there was a money transactions between the petitioner and the other co-accused persons and as per page no. 23 at serial no. 55 of the case diary, total Rs. 6,43,500/- was credited in the account of the petitioner by the account No. of the accused Sanjay Ray and Bitish Kumar. The bail application of the co-accused Sanjay Rai has already been rejected by this court vide order dated 15.07.2025 passed in Cr. Misc. 19384 of 2025.

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 material available on record, 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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