

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19384 of 2025

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

Sanjay Ray, S/O Late Kapildeo Rai @ Kpil Rai, R/O Village- Naya Tola
Sabnima, P.S.- Athmalgola, Distt.- Patna.

... .. 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, Advocate
For the U.O.I.	:	Mrs. Shail Kumari, C.G.C.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 15-07-2025 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 N.D.P.S. No. 28 of 2024 dated 30.06.2024 registered for the offence punishable u/ss 20(b)(ii)(c), 25 and 29 read with Section 8(c) of the N.D.P.S. 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 is Sujit Kumar alongwith 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 no concern with alleged recovery. The petitioner has two criminal antecedents out of which in one case he is on bail and one case is pending in the trial Court as stated in para 3 of the bail petition. The petitioner is in custody since 09.03.2024.

5. Learned counsel for the Union of the India has vehemently opposed the bail petition of the petitioner by submitting that as per the impugned order on the basis of the chemical examination it is found that the seized contraband is commercial quantity i.e., 240 kgs of Ganja. In para 55 of the case diary it is mentioned that total Rs. 6,43,500/- has been credited in the bank account of accused Dibakar Guha from the bank account of the petitioner and the co-accused namely Bitish Kumar.

6. Learned APP for the State has 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 "weight of entire materials/ mixture



along with neutral material is to be considered for ascertainment of whether the quantity is “small quantity” or “commercial quantity”. The act of the petitioner amounts to clear violation of section 8 of the N.D.P.S. Act as it clearly prohibits possession of narcotic substance except medical and scientific purposes.

7. 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.

8. 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.”



9. Considering the aforesaid facts and circumstances of the case as well as the material available on the record this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with N.D.P.S. Case No. 28 of 2024, pending in the Court of learned District & Additional Sessions Judge-I, Bhagalpur.

10. Learned trial court is directed to conclude the trial of the petitioner at the earliest.

11. The application stands rejected.

(Chandra Prakash Singh, J)

khushbu/-

U			
---	--	--	--

