

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22155 of 2025

Arising Out of PS. Case No.-121 Year-2023 Thana- DANAPUR RAIL P.S. District- Patna

SUNIL CHOUDHARY S/o Laxman Choudhary @ Ramesh Choudhary R/o
Ward no 11, Near Kali Mandir, Raxaul, PS- Haraiya, District- East
Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Kumar Rajeev

For the Opposite Party/s : Mr.Md. Shakir Ahmad

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

ORAL ORDER

2 23-06-2025 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 Rail Danapur P.S. Case No. 121 of 2023 dated 21.05.2023 registered for the offence punishable u/ss 8, 20(b)(ii)(c), 18, 22 of N.D.P.S. Act.

3. As per the prosecution case, total 22.3 Kgs of Charas was recovered from the backpack of the petitioner and the co-accused person.

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. As per impugned order, three



prosecution witnesses have been examined by the prosecution but the witnesses were discharged without cross-examination as no one turned-up to examine these witnesses. The petitioner has no concern with alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 20.05.2023. The co-accused person has already been granted regular bail by this Court vide order dated 08.05.2024 passed in Cr. Misc. No. 33255 of 2024.

5. Learned A.P.P. for the State 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., 22.3 kgs of Charas. The petitioner has no any valid authorization for keeping the same. 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.

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 the record this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Rail Danapur P.S. Case No. 121 of



2023, pending in the Court of learned Exclusive Special Court
(N.D.P.S.) No.2, Patna.

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

10. The application stands rejected.

(Chandra Prakash Singh, J)

shivam/-

U		T	
---	--	---	--

