

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22391 of 2025

Arising Out of PS. Case No.-5 Year-2022 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Begusarai

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Pritam Kumar, Son of Kapil Dev Mahto, Resident of village and P.O. -
Basahi, P.S. - Cheriya Bariyarpur, District - Begusarai, State of Bihar

... .. Petitioner

Versus

The Union of India through Narcotics Control Bureau, Ministry of Home
Affairs, Department of Internal Security, Karpoori Thakur Sada, Ashiana
Digha Road, Patna, Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Shubhesh Pandey, Advocate.
For the NCB (U.O.I.) : Mr. Rakesh Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 16-04-2025 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner seeks bail in connection with
N.D.P.S. Case No. 06 of 2022, N.C.B P.S. Case No.05 of 2022
registered for the offences punishable under Sections 08(c),
20(b)(ii)(c), 25 and 29 of the N.D.P.S. Act.

3. Here, it is pertinent to mention that even prior to
the present petition for regular bail, the petitioner had preferred
Cr. Misc. 47056 of 2024 for his enlargement on bail. However,
the same was rejected vide order dated 02.08.2024 observing as
follows:-

“Considering the fundamental right of the
Petitioner to speedy trial, learned Trial Court is



directed to make efforts to conclude the trial within six months, failing which, the Petitioner would have liberty to move this Court renewing his prayer for regular bail”.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in this case. He further submits that the petitioner is in custody since 31.01.2022 i.e. for three years two months and 16 days and trial is not concluded till date. He further submits that if the petitioner continues to be in custody, it would be gross violation of Article 21 of the Constitution of India. He also relies upon the judgment of **Md. Muslim alias Hussain Vrs. State (NCT of Delhi), (2023) 18 SCC 166** to argue that the expeditious trial is an integral part of Article 21 of the Constitution of India and while considering undue delay in trial, Section 37 of the N.D.P.S. Act does not come in the way. He also submits that even on merit, recovery has been made from a truck not belonging to the petitioner, nor is any recovery of any contraband from the possession of the petitioner. Only evidence against the petitioner is confessional statement of co-accused recorded under Section 67 of the N.D.P.S. Act which is not admissible in the eye of law after celebrated judgment of **Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1**.

5. It has also been stated in paragraph no. 3 of the bail



petition that the petitioner has no criminal antecedent.

6. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one.

7. However, learned counsel for the N.C.B. vehemently opposes the prayer of the petitioner for bail submitting that 547 Kg. *Ganja* was recovered from a truck bearing registration No. NL-01G-5946 and as per the confessional statement of Driver and Khalasi of the truck, the recovered *Ganja* belongs to the petitioner. Hence, the case is covered under Section 37 of the N.D.P.S. Act and petitioner does not deserve to be enlarged on bail. He relies upon the judgment of **Narcotics Control Bureau Vs. Mohit Aggarwal, (2022) 18 SCC 374.**

8. I considered the submission advanced by both the parties and perused the material on record.

9. I find that on merit the petitioner has been all along refused to be enlarged on bail in view of Section 37 of the NDPS Act. However, vide order dated 02.08.2024 passed by this Court in Cr. Misc. 47056 of 2024, learned Trial Court was directed to conclude the trial expeditiously within six months in view of the custody of the petitioner for more than 2 and ½



years but till date trial could not be concluded. From the order of learned Trial Court, it transpires that altogether four Prosecution witnesses have been examined and trial is still going on.

10. In view of the petitioner being in custody for more than three years and two months, keeping the petitioner in custody would be violative of Article 21 of the Constitution of India. Hence, relying upon the judgment of **Md. Muslim alias Hussain** (supra), **this application is allowed**, directing the petitioner, above-named, to be enlarged on bail on his furnishing bail bonds in the sum of Rs.10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned court below in connection with N.D.P.S. Case No. 06 of 2022 subject to the condition that if the petitioner commits any similar offence, his bail bonds will be cancelled by learned court below and also on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not get hampered on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.



(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents, learned court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, learned court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J)

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