

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30399 of 2025

Arising Out of PS. Case No.-27 Year-2021 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Patna

=====

ADALAT RAI S/o- Late Ram Jawahar Rai @ Jawahar Ray Village- Rasulpur
Habib Ps- Desari Chandpura OP Dist- Vaishali

... .. Petitioner/s

Versus

The Union of India through Director, Narcotics Control Bureau, Patna Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Y.C. Verma, Sr. Advocate
	:	Mr. Ganesh Prasad Singh, Advocate
For the Opposite Party/s	:	Mr. Ram Anurag Singh, CGC

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 04-07-2025 Heard Mr. Y.C. Verma, learned senior counsel for

the petitioner and Mr. Ram Anurag Singh, learned counsel for

the Union of India.

2. Petitioner seeks bail who is in custody since
07.04.2022 in connection with N.D.P.S Special Case No. 182 of
2021 arising out of Narcotics Control Bureau (NCB) case No.
27 of 2021, filed on 22.11.2021 for the offences punishable
under Sections 8(c), 20(b)(ii)(c), 25 and 29 of N.D.P.S. Act.

3. According to FIR, 311.600 kgs of Ganja has been
recovered from the truck in question.

4. Earlier the prayer for bail of the petitioner was
rejected vide order dated 26.04.2024 passed in Cr. Misc. No.
27516 of 2024.



5. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that neither the petitioner was apprehended with the truck from which Ganja alleged to be recovered nor any incriminating article has been recovered from the possession of the petitioner. The petitioner has been made accused only on the basis of statement of apprehended person, namely, Ranjan Kumar Ray recorded on 31.12.2021 under Section 67 of N.D.P.S Act.

6. Learned counsel for the petitioner further submits that the petitioner had received notice under Section 67 of the N.D.P.S Act from NCB, Patna and he had voluntarily appeared before the Officer of NCB on 06.04.2022 but NCB, Patna had arrested to the petitioner and the petitioner is in custody since 07.04.2022.

7. Learned counsel for the petitioner submits that in the present case the NCB has not collected whisper material/evidence in collaboration of either statement of apprehended persons with truck and Ganja-like substance or on the basis of statement of the petitioner recorded under Section 67 of N.D.P.S Act and apart from that as per CDR report which suggest that the petitioner was not in touch with the



apprehended co-accused person.

8. Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court reported as **Tofan Singh vs. State of Tamil Nadu(2021) 4 SCC 1**, which is quoted hereinbelow:-

"Para 155 Thus, to arrive at conclusion that a confessional statement made before an officer designated under section 42 or 53 can be the basis to convict a person under the NDPS Act, without any non obstante clause doing away with section 25 of the Evidence Act, and without any safeguards, would be a direct infringement of the constitutional guarantees contained in Articles 14, 20(3) and 21 of the Constitution of India.

Para 158(1) That the officer who are invested with powers under section 53 of the NDPS Act are "Police officers" within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

Para - 158.2 That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trail of an offence under the NDPS Act.



9. Learned counsel for the petitioner submits that sole ground to arraign the petitioner as an accused in this case on the basis of so-called alleged disclosure of co-accused as well as of the petitioner under Section 67 of N.D.P.S Act is inadmissible in terms of the judgment of the Hon'ble Supreme Court (supra).

10. Learned counsel for the petitioner submits that though charges were framed against the petitioner in the year 2022 vide order dated 04.11.2022 but after lapse of more than three years, NCB has produced only three witnesses out of 6 prosecution witness in support of their case.

11. Learned counsel for the petitioner has relied upon the order dated 03.12.2024 passed in Cr. Misc. No. 42392 of 2024 by which one Jagdish Kumar who was made accused in N.D.P.S Case No. 133 of 2021 under Section 20, 25 and 29 of N.D.P.S Act of the recovery of 382.50 kg of Ganja. Considering the ratio laid down by Hon'ble Supreme Court in the case of Mohd. Muslim @ Hussain vs. (NCT of Delhi) reported in 2023 Live Law(SC) 260 and also ratio laid down by Supreme Court in the case of legal Aid Committee Representing Under Trial Prisoners vs. Union of India and other reported in (1994) 6 SCC 731 and case of the petitioner is better footing of the said case of Jagdish Kumar as nothing was recovered from the possession of



the petitioner and he has been put behind the bar for long period merely on the ground of confessional statement of co-accused in which co-accused taken name of the petitioner as well as showing extra judicial confession of the petitioner.

12. The learned counsel for the Union of India has vehemently opposed the prayer for bail of the petitioner and submits that it appears from the FIR and seizure list that the recovery of the contraband is more than the commercial quantity so there is embargo under Section 37 of the N.D.P.S Act to grant privilege of bail to the petitioner. He further submits that although charge has been framed against the petitioner long back in 2022 itself and apart from that out of 06 prosecution witness, 04 prosecution witness has been examined and remaining 02 independent witness is yet to be examined.

13. Considering the aforesaid facts and circumstances and the fact that the petitioner has clean antecedent as well as order dated 03.12.2024 passed in Cr. Misc. No. 42392 of 2024 by which similarly situated co-accused persons in connection with other N.D.P.S matter have been granted bail, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional &



Session Judge 17th, Patna in connection with Narcotics Control Bureau (NCB) Case No. 27 of 2021, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

Suruchi/-

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

