

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.39895 of 2025

Arising Out of PS. Case No.-401 Year-2023 Thana- BANIAPUR District- Saran

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Dharmendra Sah S/o Late Angad Sah R/o Village/Mohalla- Puchare, P.S.-
Baniyapur, District- Saran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mili Kumari

For the Opposite Party/s : Mr. Navin Kumar Pandey

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

ORAL ORDER

2 18-08-2025 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 Baniapur P.S. Case No. 401/2023 dated 25.09.2023 registered for the offences punishable u/s 8, 20(b)(ii)(C) of the N.D.P.S. Act.

3. As per the prosecution case, total 45.250 kg. *ganja* was recovered from the paddy field which was kept by the petitioner.

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. It is submitted that the recovery of



ganja has been made from the open paddy field and the petitioner has no concern with the open paddy field in question. It is submitted that no incriminating article has been recovered from the conscious possession of the petitioner or from the house of the petitioner. It is further submitted that except an information furnished by the *spy* and *Mahal Chaukidar*, there is no cogent material against the petitioner. The petitioner has seven criminal antecedents as stated in para 3 of the bail petition. The petitioner is in custody since 28.01.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner by submitting that the seized contraband is commercial quantity i.e. 45.250 kg *ganja* which was recovered from the paddy field which was kept by the petitioner. The petitioner has no valid authorization for keeping the said contraband. Earlier the regular bail of the petitioner has been rejected by this court vide order dated 08.08.2024 passed in Cr. Misc. No. 53961/2024.

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 recovery of commercial quantity of ganja from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. This application stands rejected and the learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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