

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44232 of 2025

Arising Out of PS. Case No.-29 Year-2025 Thana- RAXAUL District- East Champaran

Raja Miyan @ Raja Hussain Son of Abulaish Miyan R/o Village - Nawka
Tola, P.S.- Raxaul, Dist.- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhannjay Kumar Ii

For the Opposite Party/s : Mr.Tarkeshwar Nath Thakur

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

ORAL ORDER

2 14-07-2025 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 Raxual P.S. Case No. 29/2025 dated 15.01.2025 registered for the offences punishable u/s 30(a) of the Bihar Prohibition and Excise Act, Sections 20(b) (ii)(C), 21(b), 22(b), 23(c) and 29 of the N.D.P.S. Act.

3. As per the prosecution case, total 1.400 litres of illicit english liquor, 1.700 kgs charas, 10.86 mg smack, Onerex cough syrup 1.900 litres, Nitrazepam tables 139 pieces, Semplex plus tablets 24 pieces and total 590 grams ganja were recovered from the house of 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. The petitioner has no concern with the alleged recovery. The petitioner has clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 16.01.2025.

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. 1.900 litres of ONREX cough syrup containing codeine. It is further submitted that the seized contraband i.e. 1.700 kgs *charas* is commercial quantity. Learned APP for the State also 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".

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, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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