

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42705 of 2025

Arising Out of PS. Case No.-42 Year-2024 Thana- RATANPUR District- Supaul

Suresh Mukhiya, S/o Late Rameshwar Mukhiya, Resident of Village- Piprahi
Ward No. 3, P.S.- Ratanpura, District- Supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Patla Kumari, Advocate

For the Opposite Party/s : Mrs. Nirmala Kumari, APP

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

ORAL ORDER

2 15-07-2025 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 with Ratanpura P.S. Case No. 42 of 2024 dated 30.06.2024 registered for the offence punishable u/ss 8, 20(b)(ii)(C), and 29 of the N.D.P.S. Act.

3. As per the prosecution case, total 67 Kgs of Ganja was recovered from the bathroom 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 alleged recovery. The petitioner has no



criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 01.07.2024.

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., 67 kgs of Ganja. 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 conscious possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with Ratanpura P.S. Case No. 42 of 2024, pending in the Court of learned Additional Sessions Judge-IV, Supaul.

9. The application stands rejected.

(Chandra Prakash Singh, J)

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