

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62542 of 2024

Arising Out of PS. Case No.-62 Year-2021 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

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Harish Kumar @ Hari Son of Satpal Singh Resident of Mohalla - Parbatiya Colony, House No.- 1472, Police Station - Saren, District - Faridabad (Haryana).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aryan Singh, Advocate

For the Opposite Party/s : Mr. Pawan Kumar Chaurasia, APP

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CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

5 20-02-2025 Heard Mr. Aryan Singh, learned counsel for the petitioner and Mr. Pawan Kumar Chaurasia, learned APP for the State.

2. The petitioner has prayed for regular bail in a case registered for the offence punishable under sections 8, 20(b) (i) (c) of the N.D.P.S. Act.

3. The case of the prosecution is that from the possession of this petitioner altogether 1100 kgs of ganja was recovered.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has committed no offence. He has falsely been implicated in this case. Petitioner is a co-driver of the vehicle from where the alleged contraband was recovery. A



statement has been made in para-3 of this petition that the petitioner has got no criminal antecedent. Moreover, he is languishing in judicial custody since 23.08.2021.

5. Learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in the case of **Rabi Prakash vs. The State of Odisha** wherein the Apex Court held in para-4 which is as under:-

As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

6. Learned APP appearing for the state has opposed the prayer of regular bail.

7. In this case, report has already been called for from the trial court and from perusal of the said report, it transpires that none of the witnesses have been examined till today.

8. Having heard learned counsel for the parties and



considering the facts and circumstances of the case as well as custody of the petitioner, this court is inclined to enlarge the petitioner on bail. The above named petitioner is directed to be released on bail in connection with Excise Case N.D.P.S Case No. 62 of 2021 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-Ist, Gaya with a condition that **petitioner shall co-operate in the trial and shall be present on each and every fixed date and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.**

(Ashok Kumar Pandey, J)

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