

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65164 of 2024

Arising Out of PS. Case No.-2 Year-2024 Thana- BHANGHA District- West Champaran

Nabi Alam S/o Late Mojamil Miyan Resident of Village- Kotwa, PS-
Bhangha, Distt.- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dhananjay Kumar, Adv.

For the Opposite Party/s : Ms. Sharda Kumari, APP

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

ORAL ORDER

6 20-03-2025 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 Bhangha P.S. Case No. 02 of 2024 dated 10.01.2024 registered for the offence/s punishable u/ss 20(b)(ii)(c), 22(c), 23(c) and 21(c) of the N.D.P.S. Act.

3. As per the prosecution case, total 4 Kgs. Charas was recovered from the motorcycle of the petitioner.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The petitioner is neither the owner nor the driver of the said vehicle and he has no concern with the alleged



recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has one criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 11.01.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner and submitted that the seized contraband was recovered from the motorcycle of the petitioner. The seized contraband is of commercial quantity i.e. 4 kgs. of Charas. The petitioner had no any valid authorization for keeping the said contraband.

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 i.e. 4 kgs. of Charas from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. The application stands rejected.

(Chandra Prakash Singh, J)

Gautam/-

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

