

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.67065 of 2025

Arising Out of PS. Case No.-45 Year-2025 Thana- NUAOW District- Kaimur (Bhabua)

1. Rupesh Kumar @ Ritesh Kumar S/O Mangal Singh Kushwaha @ Mangala Singh Kushwaha Resident of Village- Kusi, P.S.- Dildarnagar, District- Gazipur (Uttar Pradesh).
2. Pramod Kumar S/O Mangal Singh Kushwaha @ Mangala Singh Kushwaha Resident of Village- Kusi, P.S.- Dildarnagar, District- Gazipur (Uttar Pradesh).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate

For the Opposite Party/s : Mr. (Dr.) Mrityunjaya Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

3 11-11-2025 Heard learned counsel for the petitioners and learned A.P.P. for the State.

2. The petitioners have preferred this application for grant of regular bail in connection with Nuaon P.S. Case No. 45 of 2025, dated 23.04.2025 registered for the offences punishable under Sections 8(C), 21(C) and 27(A) of the NDPS Act.

3. As per the prosecution case, on 22.04.2025 at around 10:30 PM, during the course of vehicle checking two persons riding on a motorcycle were seen coming from the village side, who on seeing Police tried to escape, but were



apprehended by Police. It is further alleged that during search 2.513 kilograms of heroin was recovered from the dicky of the said motorcycle.

4. Learned counsel for the petitioners has submitted that the petitioners are innocent and have falsely been implicated in this case. Nothing has been recovered from the conscious possession of the petitioners. The motorcycle in question from which the alleged contraband has been recovered does not belong to the petitioners. The petitioners have got no criminal antecedent as stated in paragraph no. 3 of the bail petition. The petitioners are in custody since 24.04.2025.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioners. The seized contraband is more than the commercial quantity, i.e., 2.513 kilograms of heroin and the motorcycle in question was found in possession of the petitioners. Learned APP for the State also placed reliance on the judgment in the case of *Hira Singh & Anr. v. Union of India & Anr, (2020) 20 Supreme Court Cases 272* where Hon'ble Apex Court has held that "Brown sugar/smack is usually made available in powder form. The substance is only about 20 percent heroin. The heroin is mixed with other substances like chalk powder, zinc oxide, because of



these, impurities in the drug, brown-sugar is cheaper but more dangerous.” It is further submitted that as per entry 56 of the list of NDPS Act, small quantity of brown sugar as defined is 5 grams and commercial quantity of brown sugar as defined is 250 grams.

6. As per Section 37 of the NDPS 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 chargesheet 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 NDPS Act.”

8. Considering the aforesaid facts and circumstances of the case as well as the recovery of the commercial quantity of heroin, i.e., 2.513 kilograms from the conscious possession of the petitioners, I am not inclined to enlarge the petitioners above-named on bail.

9. Learned Trial Court is directed to expedite and conclude the trial at the earliest.

10. The application stands rejected.

(Chandra Prakash Singh, J)

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