

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74688 of 2024

Arising Out of PS. Case No.-6 Year-2024 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Bhagalpur

=====

Arun Sah Son of Jainarayan Sah R/O Village-Tharbhatta, Ward no.6, P.S.-
Kisanpur, District- Supaul

... .. Petitioner/s

Versus

1. Narcotics Control Bureau, Patna Bihar
2. The State Of Bihar Patna

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Adv. Mr. Mayank Raj, Adv.
For the Opposite Party/s	:	Dr. K.N Singh (Asg), APP
For the U.O.I.	:	Mrs. Shail Kumari, Adv. (CGC)

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 19-03-2025 Heard learned counsel for the petitioner, learned
counsel for the C.G.C. and learned A.P.P for the State.

2. The petitioner has preferred this application for grant of regular bail in connection with N.D.P.S. Case No. 42 of 2024 arising out of NCB Case No. 06 of 2024 dated 04.04.2024 registered for the offence punishable u/ss 20(b)(ii)(C), 25, 29 and 8(c) of the N.D.P.S Act.

3. As per the prosecution case, total 180 kgs ganja was recovered from the dicky of the Hundai Venue Car bearing Registration No. 11BG 8771 and the driver disclosed his name as Chandan Kumar Choudhary and the person who was sitting on the vehicle by the side of the driver disclosed his name as Arun Sah (petitioner).



4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The name of the petitioner has transpired only on the confessional statement of the co-accused, Chandan Kumar Chaudhary. The petitioner is not the driver but he is the owner of the said vehicle. 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 04.04.2024.

5. Learned A.P.P. for the State and learned counsel for the C.G.C have vehemently opposed the bail petition of the petitioner and submitted that the CDR details clearly shows that on the date of incident, the petitioner and the co-accused, Chandan Kumar Chaudhary were in constant touch with each other. The petitioner had no valid authorization for keeping the said contraband. The petitioner was one of the occupant of the said vehicle in which total 180 kgs of ganja was recovered. The said seized contraband is of 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.

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.*”

7. Considering the aforesaid facts and circumstances of the case as well as the recovery of commercial quantity from the conscious possession of the petitioner, this Court is not inclined to grant bail to the petitioner and the same is rejected in connection with N.D.P.S. Case No. 42 of 2024 arising out of NCB Case No. 06 of 2024 pending in the court of learned Sessions Judge, Bhagalpur.



8. Learned trial court is directed to conclude the trial
of the petitioner at the earliest.

(Chandra Prakash Singh, J)

shivam/-

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

