

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85963 of 2024

Arising Out of PS. Case No.-160 Year-2024 Thana- JOGBANI District- Araria

Md. Irshad Son of Md. Nijam Seikh Resident of Village- Kushmaha, Ward
No. 4, P.S.- Jogbani, Distt.- Araria

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Mrigendra Kumar

For the Opposite Party/s : Mr.Uday Chand Prasad

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

ORAL ORDER

2 09-01-2025 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 Jogbani P.S. Case No. 160 of 2024 dated 23.07.2024 registered for the offence/s punishable u/ss 20(b)(ii)(C) of the NDPS Act.

3. As per the prosecution case, total 34 kgs. Ganja was recovered from the possession of the petitioner and 34 kgs. Ganja was also recovered from the possession of the co-accused.

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 clean antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 23.07.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. The petitioner had no any valid authorization for keeping the said contraband. The said offence is related to the offence of NDPS Act and the Drug and Cosmetic Act.

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 of Ganja i.e. 34 kgs. from the conscious possession of the petitioner, I am not inclined to enlarge the petitioner on bail.

9. Learned trial court is directed to expedite the trial and conclude the same at the earliest.

(Chandra Prakash Singh, J)

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