

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86257 of 2024

Arising Out of PS. Case No.-81 Year-2024 Thana- MEHSI District- East Champaran

Surendra Yadav S/o- Khushi Ram Yadav @ Khushi Ram Resident of village-
Chaukhat Ahiran Purva Ps- Bajirganj District-Gonda, U.P

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

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

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

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

ORAL ORDER

2 18-01-2025 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 Mehshi P.S. Case No. 81 /2024
(NDPS G.R. Case No. 53 of 2024) dated 09.06.2024 registered for
the offence punishable u/ss 8, 21(b), 22, 24, 27(A) and 29 of the
N.D.P.S. Act.

3. As per the prosecution case, total 300 Kgs. ganja was
recovered from the truck which was being driven by the co-
accused, Raj Kumar Yadav. Police apprehended the petitioner and
the co-accused person with the said truck. It is further alleged that
the petitioner was found sitting in the said truck.

4. Learned counsel for the petitioner has submitted that
the petitioner is innocent and has falsely been implicated in this



case. The petitioner is not the owner of the said truck. The petitioner is the co-driver of the said truck but he has no concern with the alleged recovery. Nothing has been recovered from the conscious possession of the petitioner. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The petitioner is in custody since 10.06.2024.

5. Learned A.P.P. for the State has vehemently opposed the bail petition of the petitioner. It is further submitted that the recovery has been made from the said truck and he was arrested on the spot. It is further submitted that the seized contraband is commercial quantity i.e., 300 kgs of *ganja*. Learned counsel has further submitted that the petitioner had no valid authorization for keeping the said *ganja*.

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.*”

6. Considering the aforesaid facts and circumstances of the case as well as the finding substance in the contention of learned counsel for the State and 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 Mehshi P.S. Case No. 81 of 2024 pending in the court of learned Sessions Judge/ Special Judge, East Champaran, Motihari.

7. The application stands rejected.

(Chandra Prakash Singh, J)

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