

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1863 of 2025

Arising Out of PS. Case No.-83 Year-2024 Thana- Bathnaha District- Araria

Md. Haroon @ Haroon Son of Late Md. Nazir Resident of Village - Sonapur
Ward No. 16, P.S. - Bathnaha, District - Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vivekanand Singh, Adv

For the Opposite Party/s : Mr. Uday Pratap Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 22-03-2025 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The petitioner seeks bail in connection with
Bathnaha P.S. Case No. 83 of 2024 registered for the
offences under Sections 8 and 20 (b)(ii)(c) of the NDPS Act

3. The petitioner is named in the F.I.R. and is in
custody since 30.07.2024.

4. The allegation against the petitioner is to have in
possession of 353 kilograms of contraband i.e., *ganja*.

5. Learned counsel appearing on behalf of the
petitioner submitted that petitioner is neither owner nor driver
of the alleged tractor. It is submitted that he was simply the
passer-by and seeing police he started running away and
merely on the basis of suspicion he was arrested in connection
with the present case. It is pointed that being aggrieved with



his arrest, petitioner filed complaint case before learned Court below, which has been registered as Complaint Case No. 1739 (C) of 2024 before learned C.J.M., Araria. While concluding the argument it is submitted that if the allegation be taken true on its face, then recovery of contraband not appears prima-facie, to be made from the conscious physical possession of this petitioner and, therefore, the import of rigorous provision as available under Section 37 of the NDPS Act, 1985 not appears applicable in the present case. It is said that petitioner found involved in one more case for the offence under Section 395 of the IPC, where he is on bail and moreover, investigation of this case has been already completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

6. Learned APP appearing on behalf of the State, while opposing the prayer for bail submitted that petitioner was apprehended immediately by police, when he was stepping down from the alleged tractor loaded with 353 kilograms of contraband. It is submitted that the conduct of petitioner prima-facie suggests that he was under the



knowledge of consignment of contraband having mental culpability in view of Section 35 of NDPS Act and, therefore, the recovery from his conscious physical possession cannot be ruled out, at this stage. It is submitted that recovery is of huge quantity, much above than commercial quantity, therefore, the petitioner does not deserves bail, in view of provision of Section 37 of the NDPS Act, 1985.

7. In view of aforesaid facts and circumstances and by taking note of fact as there is recovery of huge quantity i.e., 353 kilograms of contraband from the tractor with which petitioner was travelling, accordingly by taking note of legal propositions as available under Section 37 of the NDPS Act, the prayer of bail of petitioner stands rejected for the present.

8. Learned Trial Court is directed to conclude the trial, preferably, within a year.

(Chandra Shekhar Jha, J.)

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