

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50103 of 2026

Arising Out of PS. Case No.-1644 Year-2025 Thana- Excise P.S. District- Muzaffarpur

-
1. Binod Kumar S/O Harichandra R/O at House No. 2047, Malkaganj Sabji Mandi, P.S.- Sabji Mandi, Delhi- 110007.
 2. Vishal Thakur @ Abhishek @ Vishaldeep S/O Motilal R/O at House No. 454, Gauta, Gali, Kabir Basti, P.S.- Sabji Mandi, North Delhi, Delhi-110007.
- Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raju Kumar, Adv. Mr. Subham Samrat, Adv.
For the Opposite Party/s	:	Mr. Dr. Mrityunjaya Kr.Gautam, APP

CORAM: HONOURABLE MR. JUSTICE GIRIJISH KUMAR
ORAL ORDER

2 22-07-2026 Heard learned counsel appearing on behalf of the
petitioners and learned APP appearing on behalf of the State.

2. The petitioners seek regular bail in connection with
Excise P.S. Case No. 1644 of 2025 registered for the offence
punishable under Sections 8, 20(b)(ii)(c), 32(3) of the N.D.P.S.
Act.

3. As per allegation in the FIR, total 250 kilograms of
ganja contained in 125 packets of 2 kgs. were recovered from
the container bearing registration no. HR55AC1970 and the
petitioners are said to be the driver and co-driver of the said
vehicle and accordingly, they have been arrested by the police at
the place of occurrence.

4. Learned counsel for the petitioners submits that the
petitioners are innocent and have not committed any offence. In



fact, according to the F.I.R. and seizure list, altogether 250 Kgs. of Ganja is said to have been recovered from the Container in question and these petitioners have been apprehended from the spot who disclosed that they happen to be the driver and assistant driver of the container in question. It has further been submitted that nothing incriminating has been recovered from the conscious possession of the petitioners and they have no concern with the alleged recovery of Ganja. It has also been submitted that though the petitioners happen to be driver and assistant driver of the container but they are not involved in illegal dealing of Ganja in any way. He further submits that the petitioners, who are of clean antecedent, are rotting in judicial custody since 18.10.2025.

5. Learned A.P.P. appearing for the State, vehemently, opposed the prayer for bail of these petitioners and submitted that a huge quantity to the extent of 250 Kgs. of Ganja falling within the purview of commercial quantity has been recovered from the container in question and the petitioners have been apprehended by the police from the spot. He further submits that the police has submitted charge-sheet in this case against the petitioners. It has also been submitted that since the recovered quantity comes under the purview of commercial quantity, the



petitioners seem to be engaged in dealing with the contraband substance like Ganja. Hence, the petitioners do not deserve to be enlarged on bail.

6. Since the quantum of recovery of Ganja in this case falls within the purview of commercial quantity, which is defined as 20 Kg., the stringent provision of Section 37 of the N.D.P.S. Act, 1985 shall come into play in this case which clearly depicts that the grant of bail in such cases, attracting rigours of N.D.P.S. Act, where the recovery of commercial quantity of narcotic is alleged, is circumscribed. Section 37 says that while granting bail, the Court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences for which he has been charged, and further he is not likely to commit any offence while on bail.

7. This issue has also been considered by the Hon'ble Supreme Court in the case of *State of Kerala and Ors. Vs. Rajesh & Ors.* reported in *2020 (12) SCC 122* as well as in the case of *Narcotic Control Bureau Vs. Mohit Aggarwal* reported in *AIR 2022 SC 3444*.

8. In view of the aforesaid reference and the facts of the case, this court is of the view that the recovery of more than



commercial quantity of Ganja from the container would not justify that the petitioners were not involved in commission of such offence and also there is no material available to substantiate that the petitioners would not commit such offence in the event of their release.

9. In such view of the matter and considering the quantum of recovery of Ganja to the tune of 250 Kgs., as well as the mandate of Section 37, this Court is not inclined to enlarge the petitioners on bail at this stage. Accordingly, the prayer for grant of bail to the petitioners is rejected.

10. However, learned trial court is directed to expedite the trial.

(Girijish Kumar, J)

nitu/-

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

