

GAHC010056842023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./1037/2023

RAVINDRA RAY AND ANR
S/O- BALESHWAR RAY, R/O- DUMARI DAKSHINI, P.S. PATORI CHAPRA,
DIST.- SAMASTIPUR, BIHAR- 848506

2: GHUNTUN RAY
S/O- KAMESWAR RAY
R/O- DUMARI DAKSHINI CHAPRA
P.S. PATORI
DIST.- SAMASTIPUR
BIHAR- 84850

VERSUS

THE UNION OF INDIA
REP. BY THE NARCOTICS CONTROL BUREAU

Advocate for the Petitioner : MR D J HALOI

Advocate for the Respondent : SC, NCB

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

02.05.2023

Heard Mr. S. Das, learned counsel for the accused petitioners as well as Mr. S.C. Keyal, learned Standing Counsel, NCB.

2. By this petition under Section 439 Cr.P.C., the accused/petitioners, namely **1) Ravindra Ray and 2) Ghuntun Ray** have prayed for grant of bail in connection **N.D.P.S. Case No. 108/2020 u/s 8(c)/20(b)(ii)(c)/29** of the N.D.P.S. Act arising out of **NCB Crime No. 10/2020**.

3. The scanned copy of case record along with the case diary, as called for, is placed before the Court.

4. Mr. S. Das, learned counsel for the accused petitioners, submits that both the accused persons are languishing in judicial custody for 1051 days without even commencement of trial in the case, on accusation of possessing 484.300 kg of ganja along with two others. It has been submitted that although the Final Offence Report was submitted on 10.12.2020 the charges are also yet to be considered by the learned trial Court. Therefore, Mr. Das submits that subject to any condition(s), the accused petitioner may be directed to be enlarged on bail.

5. Opposing the bail application, Mr. S.C. Keyal, learned Standing Counsel for the respondent/N.C.B. submits that the delay in trial is caused due to co-accused Md. Kari@ Md. Jiyaruddin has been detained in connection with Special (N.D.P.S.) Case No. 07/2019 pending in the court of learned Additional District & Sessions Judge No. XVII at Patna vide order, dated 07.10.2022 and since then not produced before the present trial court. Thereafter, Mr. Keyal submits that the order, dated 25.11.2022, shows that accused Rabindra was admitted in the G.M.C.H. for illness for which on that day, he was not produced before the learned trial Court. Thus, Mr. Keyal submits, since sent to Patna Court accused Kari has not been produced despite production warrants being repeatedly issued entailing delay in commencement of trial for which N.C.B. is not solely responsible.

6. The case relates to recovery and seizure of 484.300 kgs of ganja on 16.06.2020 from a truck bearing registration No. CG 08 L 3066.

7. It is noticed that both the accused petitioners are in judicial custody since

16.06.2020, that is, for 1051 days.

8. A perusal of the case record along with the case diary reveals that after completion of investigation, the N.C.B. laid an Offence Report on 10.12.2020 against the accused petitioners and four others showing three of them as absconder. Thereafter, the absconder accused Sukur @Aminur Islam @Shakur Miya was arrested on 15.03.2021 and produced before the Court on 16.03.2021. The Intelligence Officer, N.C.B., Guwahati reported that other two absconder accused namely, Kali Ray of Bihar (receiver) and Narayan of Agartala (co-supplier of accused Sukur) could not be arrested due to non availability of their complete address.

9. It is further noticed that in 2020 and 2021 the proceeding of the case was delayed due to outbreak of Covid-19 as during the relevant period the Court work was hampered. On the other hand, their co-accused has not been produced back from the Court at Bihar till date despite production warrants are repeatedly issued and the case is pending at the stage of production of the accused persons and necessary order. Thus, the case is presently at the pre-charge stage.

10. The case diary is very serious in nature.

11. A perusal of the various statements recorded during investigation, it prima facie appears that there is abundance of incriminating material against the accused petitioners involving seizure of 484.300 kg of ganja, which is many fold higher of commercial quantity under the N.D.P.S. Act. The progress of the proceeding has been stalled due to one co-accused being detained at Patna, Bihar for a long period in connection with another case and absconding of co-accused. Therefore, there is need for serious consideration of prolonged detention of the accused persons and on the other hand, there is bar in granting bail involving commercial quantity of drugs under Section 37 of the N.D.P.S. Act.

12. For the above stated reasons, the learned trial Court is directed to streamline the proceeding expeditiously as the accused persons cannot be detained indefinitely

without trial depriving their right to speedy justice, preferably within a period of 03(three) months from the date of receipt of copy of this order.

13. The prosecution N.C.B. shall pursue the proceeding promptly in every step as per orders of the learned trial Court to be passed from time to time so as to avoid unnecessary adjournments.

14. The accused petitioners shall be at liberty to file application for bail, if so advised and if such application is filed, the same shall be considered and disposed of in accordance with law at an appropriate stage of the proceeding.

15. With the above directions, the bail application stands **rejected**.

16. Be it mentioned that no observation in this bail order shall have any bearing in the judicial discretion of the learned trial Court.

17. Furnish copy of this order to the learned Standing Counsel, N.C.B. (Mr. S.C. Keyal) and Registrar (Vigilance) for information.

This disposes of the bail application.

JUDGE

Comparing Assistant