

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.7017 of 2015

Arising Out of PS.Case No. -16 Year- 2011 Thana -PALANWA District-
EASTCHAMPARAN(MOTIHARI)

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1. Prabhu Das @ Prabhu Sah S/o Jangli Das Resident of village - Dhore,
P.S. Pokharia, District - Parsa, Nepal.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Subodh Prasad

For the Opposite Party/s : Mr. Navin Kr. Pandey(App)

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

2 01-04-2015 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is in jail custody since 10-03-2011 in
a case registered under various sections of the NDPS Act.

The petitioner is facing trial since long and this
court vide order dated 31-01-2012 passed in Cr. Misc. No. 33515
of 2011 directed the trial court to conclude the trial of the
petitioner within ten months from the date of receipt/production of
the copy of the order but uptill now, trial of the petitioner could
not be concluded as is evident from perusal of impugned order
dated 13-01-2015. It would appear from perusal of the impugned
order that out of 10 proposed prosecution witnesses, uptill now,

only six prosecution witnesses could be examined and still the case is pending for recording the evidence of the informant, the investigation officer as well as others.

Paragraph-3 to this petition reveals that the petitioner does not have any criminal antecedent and according to prosecution case itself, the alleged recovery was not made from conscious possession of the petitioner rather it is stated that 10-11 persons were carrying bundles and seeing the informant and others, threw the bundles on the earth and made attempt to flee from there but fortunately, the petitioner and one other were caught at spot.

No doubt, in huge quantity Ganja is said to have been recovered but it is an admitted position that the petitioner is in jail custody since 10-03-2011 and charge against him was framed on 20-07-2011 but uptill now, his trial could not be concluded. It is settled principle of law that no person can be detained in jail custody due to laches and laxity of the prosecution.

Therefore, considering the aforesaid facts and circumstances as well as submission of the parties, let the petitioner named above, be released on bail on furnishing bail bond of Rs 50,000/- (fifty thousand) with two sureties of the like amount each in connection with N.D. P.S. Case No. 90 of 2011 to

the satisfaction of Ist Additional Sessions Judge, Motihari subject to condition that both the sureties must be local and holders of landed property.

It is made clear that the petitioner shall attend the trial court, in person on each and every date for the period of 9 months or till conclusion of his trial, whichever is earlier and if, he fails to do so on three consecutive dates, without any reasonable cause and explanation, the learned trial court shall be at liberty to cancel the bail bonds of the petitioner after making proper inquiry.

A.K.V./-

(Hemant Kumar Srivastava, J)

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