

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 21434 of 2016

Arising Out of PS.Case No. -156 Year- 2014 Thana -RUPASPUR District- PATNA

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Ajeet Kumar son of Late Suraj Paswan, resident of Digha Polson, P.S.-
Digha District Patna, at present Karbighiya Bigrahpur, P.S. Jakkanpur,
District Patna

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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with

Criminal Miscellaneous No. 9132 of 2016

Arising Out of PS.Case No. -156 Year- 2014 Thana -RUPASPUR District- PATNA

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Sanjay Kumar @ Sanjay, son of Raja Ram, Resident of Village- Hetanpur,
P.S.- Jagdishpur, District- Ara, at present Res. of Mohalla- Rukanpura
Musahari, Behind of Shyama Apartment, P.S.- Rupaspur, District- Patna

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

(In Cr.Misc. No.21434 of 2016)

For the Petitioner/s : Mr. Sunil Kumar Pathak

For the Opposite Party/s : Mrs. Dr. Indihar Kumari(App)

(In Cr.Misc. No.9132 of 2016)

For the Petitioner/s : Mr. Vikram Deo Singh

Mr. Durga Narayan

For the Opposite Party/s : Mr. S.Ehteshmuddin(App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

12. 17-11-2016 In both the cases, the petitioners are in custody in
Rupaspur P.S. Case No. 156 of 2014 registered for offence under
Sections 17, 18, 21, 22, 27(A) of the Narcotic Drugs &
Psychotropic Substances Act, 1985 (in short “NDPS Act”) and

Sections 25(1-B)A, 26/35 of the Arms Act, 1959 and as such, both the bail petitions were taken up together and are being disposed of by this common order.

In 1st case i.e. Cr. Misc. No. 21434 of 2016, Sri Sunil Kumar Pathak, learned counsel for the petitioner submits that though recovery of certain articles like *Heroin* was shown from possession of the petitioner, besides country-made pistol and two cartridges, the same substance was not substantiated as *Heroin* and as such, the petitioner may be extended the privilege of bail, keeping in view the fact that he is in custody since 29-07-2014. He submits that the petitioner has got no criminal antecedent.

In 2nd case i.e. Cr. Misc. No. 9132 of 2016, Sri Kumar Vikramdeo Singh, learned counsel assisted by Sri Durga Narayan, learned counsel for the petitioner similarly has argued that petitioner is in custody since long and he may be extended the privilege of bail. However, he accepts that earlier, the prayer for bail of this petitioner was rejected, vide order dated 11-08-2015 passed in Cr. Misc. No. 14230 of 2015, by Hon'ble Mr. Justice Gopal Prasad (as he then was). He submits that no adequate progress has taken place in the case before the court below.

So far as prayer for bail in respect of accused Sanjay Kumar @ Sanjay (petitioner in 2nd case) is concerned, once on



merit after noticing the fact that F.S.L. report substantiated the allegation, his prayer for bail was rejected, there is no point to reconsider the same. Similarly, in 1st case, though it was argued by learned counsel for the petitioner that the substance, which was recovered from the possession of the petitioner, was not like *Heroin*, on going through the F.I.R., the Court is satisfied that such plea may not be entertained. On perusal of the F.I.R., it is evident that a secret information was received that accused persons were assembled at particular place in relation to psychotropic substances, thereafter, a raid was conducted, even before conducting personal search, an Executive Magistrate was summoned and in presence of Magistrate, search was conducted. In such cases, in view of restriction imposed under Section 37 of the NDPS Act, it would be difficult for this Court to record a finding that it was a false implication. I do not find any ground to grant bail.

The prayer for bail of both the petitioners is rejected.

However, keeping in view the fact that petitioners are in custody since long, while dismissing the present petition, it is desirable to observe that learned court below may take appropriate steps so that the case may come to its logical end without unnecessary delay. The concerned Superintendent of Police is also

directed to render full cooperation to the trial court for its early disposal.

(Rakesh Kumar, J.)

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