

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1177 of 2016

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Nitesh Kumar, Son of Chuman Mahto, Resident of Village Raghunathpur,
P.S.- Raxaul, District East Champaran, Motihari

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh

For the Respondent/s : Mr. Sri Arbind Kumar Pandey

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

4 24-03-2017 Heard learned counsel for the parties.

2. The petitioner is an accused of commission of offence punishable under Sections 20,22,23 and 24 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the **Act**) in Raxaul P.S. Case No. 20 of 2016. He has taken into custody on 27.01.2016. Investigation could not be completed within a period of 180 days. The petitioner is said to have invoked Section 36A (4) of the Act, which is in tune with Section 167(2) of the Code of Criminal Procedure, 1973 in respect of release on compulsory bail. The only difference being that under the N.D.P.S. Act, the period has been prescribed as 180 days in place of 90 days as provided under Section 167(2) of the Code of Criminal Procedure.

Proviso to sub-Section (4) of Section 36A confers Special



Court the jurisdiction to extend the said period if the investigation could not be completed within the prescribed period of 180 days, to a maximum period of one year.

An application was filed before the Special Court seeking extension of time under proviso to Sub-section (4) of Section 36A of the Act by the Station House Officer of the concerned Raxaul Police Station. By an order dated 29.07.2016, the said period has been extended. After the said period was extended, the petitioner had filed application for his release on bail by invoking the said sub-section (4) of Section 36A of the Act. It also appears that charge-sheet has now been submitted.

The petitioner in the present application has put to challenge the said order, dated 29.07.2016, whereby learned Special Judge, Motihari has allowed extension of time for the purpose of filing of charge-sheet.

The main ground, which has been taken for setting aside the order is that extension could have been allowed only on the basis of report of the Public Prosecutor indicating the progress of the investigation and specific reasons for detention of the accused beyond the said period of 180 days.

I have perused the petition filed by the Station House Officer, wherein he has given in detail the progress of the



investigation and specific reasons for delay in completion of investigation and why the detention of the accused beyond the said period was required. Such reasons have been taken into account by the Court below while extending the period for submission of charge-sheet to one year.

At this stage, when charge-sheet has already been submitted and since the order is based on a petition filed by the Station House Officer giving the details of progress of the investigation, I am not inclined to interfere with the present order in the facts and circumstances of the case.

I must indicate that the present order has been passed in the facts and circumstances of the case and I have not gone into the question as to whether requirement for the Special Court to pass an order under Section 36A(4) of the Act on the basis of report of the Public Prosecutor, is mandatory in nature.

This application stands disposed of

(Chakradhari Sharan Singh, J)

ArunKumar/-

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