

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.51170 of 2013

Arising Out of PS.Case No. -166 Year- 1998 Thana -PATNA COMPLAINT CASE District-
PATNA

=====

Shyam Kumar Gupta @ Raju, S/O Late Badri Sah of Main Road Bairgania, Distt. -
Sitamarhi presently residing at D - 4, Hazara Park, Chandar Nagar, Delhi - 51

.... Petitioner

Versus

1. The State of Bihar through the Law Secretary, Secretariat Building Patna
2. The Union of India through the Commissioner Of Customs, C.R. Building, B.C.
Patel Path, Patna (Bihar)

.... Opposite Parties

=====

Appearance :

For the Petitioner/s	:	Mr. Sri Prakash Tiwari, Advocate Mr. Anand Tiwari, Advocate Mr. Mahesh Kumar, Advocate
For the Opposite Party/s	:	Mr. Satya Prakash Tripathy, Sr. SC Mr. Satya Vrat, Advocate

=====

CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
Date: 24-05-2017

Heard learned counsel for the petitioner, learned APP
for the State and learned Senior Standing Counsel for the Custom
Department.

Petitioner under Section 482 of the Code of Criminal
Procedure (hereinafter referred to as the Cr.P.C.) seeks quashing of
the order dated 05.07.2013, passed by learned Special Judge,
Economic Offences, Patna, in Complaint Case No. 166(C)/1998 by
which grant of permission to get passport for going to China has been
rejected.

The petitioner, who is running a business in the name



and style of S. Times at 31-New Lajpat Rai Market, Delhi-6, engaged in business of purchase of watches of Indian and Chinese origin being an Income Tax and Sales Tax payee, had applied for passport for going to China for business purposes. Seeking permission to obtain such passport, he moved the Special Judge, Economic Offences, Patna in the present case pending against him for the offence punishable under Section 11 of the Customs Act, 1962 read with Section 3 of the Foreign Trade (Development & Registration) Act, 1992. The learned Special Judge rejected the prayer of the petitioner as cognizance had been taken against the petitioner on 05.08.1998 for offence punishable under Section 135(1)(b) of the Customs Act against the petitioner and three other accused persons.

It has been submitted by the learned counsel for the petitioner that the petitioner had been granted bail by a Coordinate Bench of this Court way back in the year 1998 and the case is pending before the Special Judge since last 19 years and he has been denied the right to travel abroad and this right is part of personal liberty for which he cannot be deprived except according to the procedure established by law and is violative of Article 21 of the Constitution of India as held by the Hon'ble Apex Court in the case of Satwant Singh Sawhney Vs. Union of India (W.P. No. 236 of 1966), the case of Dhiren Baxi Vs. Regional Passport Officer, Ahmedabad since



reported in AIR 2003 Gujarat 108, the case of Deepak Dwarkasingh Chhabria Vs. Union of India since reported in AIR 1997 Bombay 181 and the case of Maneka Gandhi Vs. Union of India since reported in AIR 1978 SC 597. He submits that such permission ought not to have been rejected by the learned Special Judge as the proceedings in Complaint Case No. 166 (C)/1998 has been dragging on since last 19 years and from the report, which was called for from the Special Judge, Economic Offences, Patna, it is evident that the case is proceeding at a snail pace and the matter is only fixed for framing of the charge, but no charge has been framed as yet.

However, learned Senior Standing Counsel appearing for the Custom Department submits that the petitioner after being granted bail by this Court misused the privilege of bail and absconded, later on, he surrendered and was granted bail by the learned Special Judge. He submits that because of non-cooperation of the petitioner and other co-accused, the matter has not proceeded further and as per his counter affidavit the petitioner is charged with an active role and conscious involvement in smuggling of Charas of commercial quantity and also foreign goods valued at Rs. 21,32,000/- which was seized and he has admitted his involvement. Hence, the prayer of the petitioner for grant of passport is fit to be rejected and the order of



the Special Judge, Economic Offences, Patna should not be interfered with.

Having heard learned counsel for the petitioner and learned Senior Standing Counsel for the Custom Department as well as the State, the learned Special Judge, Economic Offences, Patna is directed to complete the Complaint Case No. 166(C)/1998 while hearing it on day-to-day basis expeditiously not exceeding six months from today.

With the observation and direction aforesaid, the application is disposed of.

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.05.2017
Transmission Date	NA

