

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 11836 of 2017

Arising Out of PS.Case No. -17 Year- 2016 Thana -NTPC KHAIRA District- AURANGABAD

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Rajendra Choudhary, Son of Late Charitar Choudhary, Resident of Village-
Kajrain, P.S. N.T.P.C. Khaira, District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Superintendent of Police, Aurangabad, District- Aurangabad.
3. The Superintendent of Excise, Aurangabad, District- Aurangabad.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 17-01-2018

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks bail in connection with
N.T.P.C. Khaira P.S. Case No. 17 of 2016 dated 16.03.2016
instituted under Sections 272 and 273 of the Indian Penal Code and
Section 47(A) of the Excise Act.

3. This is the second attempt of the petitioner seeking
bail, as earlier such prayer was rejected by order dated 13.06.2016 in
Cr. Misc. No. 25067 of 2016.

4. This Court has also directed the Court below to
expedite the trial and conclude the same within nine months. The
same not having been done, the present application was filed. The



Court had called for a report from the trial Court as to why trial was not concluded. The report has been received on 15.11.2017 from the Additional Sessions Judge, VII-cum Special Judge (Excise), Aurangabad in which it has been stated that on commitment the case has been transferred to his Court on 03.04.2017 and after framing of charge against the accused summons have been issued to the witnesses, but they have not appeared.

5. Learned counsel for the petitioner has only reiterated what had been submitted earlier in the application for bail that recovery was not made from his conscious possession or from his house and that he did not have any criminal antecedent and was in custody since 17.03.2016.

6. On the other hand, learned A.P.P. for the State opposed the prayer for bail and submitted that huge quantity of 150 litres of illegal Mahua liquor was recovered in different pots and the petitioner was constructing a Bhatti and on seeing the police party, he tried to run away, but was caught.

7. The Court does not find any mitigating circumstances, after the initial order of rejection dated 13.06.2016, except for passage of time, for granting bail.

8. In view thereof, for the reasons earlier recorded in the order dated 13.06.2016, the Court is not inclined to enlarge the



petitioner on bail. Accordingly, the application stands dismissed.

9. However, the Court finds that the Court below has not been serious enough in complying with the direction of the Court to conclude the trial within the fixed period, as from 03.04.2017 till 15.11.2017, i.e., after lapse of more than seven months only charges have been framed and summons issued which does not indicate that the trial Court has seriously taken the matter or the order of the Court. The Court has sufficient powers to ensure that the trial proceeds and seven and a half months having elapsed, the Court not even ensuring substantial progress and no witnesses having been examined has forced this Court to take serious note of the matter. However, by way of extraordinary indulgence, the Court below is directed to ensure that the matter is concluded latest within the next four months. It is made clear that if the timeframe is not adhered to, this Court shall take strict view in the matter.

10. The Court would also direct the Superintendent of Police, Aurangabad as well as the Superintendent of Excise, Aurangabad, who are impleaded as opposite parties no. 2 and 3, to ensure that the prosecution witnesses are produced and examined before the Court within one month.

11. Learned A.P.P. is requested to make necessary correction in the cause title of the application. He is also requested



and communicate the order to the newly added opposite parties no. 2 and 3.

12. Registry shall communicate the order to the Court below through Fax also latest by tomorrow.

(Ahsanuddin Amanullah, J.)

Anand Kr.

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