

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7362 of 2020

Arising Out of PS. Case No.-619 Year-2019 Thana- GARDANIBAG District- Patna

DAYAL JHA @ DAYAL RAJ @ DAYAL RAJ PANDIT S/o Late Nathuni Jha
Resident of Damariya, P.S.- Gardanibagh, Distt- Patna.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Murari Prasad Sinha

For the Opposite Party/s : Mr.Awadhesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 16-09-2020 The court proceeding has been conducted through
virtual mode.

Since the court proceeding is not functional in
physical mode, due to present Pandemic, Covid -19, the present
case has been listed with defects.

Learned counsel for the petitioner undertakes to
remove the defect(s) within a period of four week of resumption
of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken
period, the office will place the matter again.

Heard learned counsel for the petitioner and Mr. J.N.
Thakur, learned counsel for the State.

The petitioner is languishing in custody since
26.02.2019, in a case registered for the offences punishable



under Sections 8(c), 21(b) and 27 of the NDPS Act.

The prosecution case, as per the self statement of Arvind Kumar Gautam, S.I. of Police-cum-S.H.O., Gardanibagh Police Station, recorded on 16.10.2019 at about 4 P.M. is to the effect that on the same day, during patrolling, the informant received an information from S.H.O., Jakkanpur Police Station that co-accused Guddu Kumar, who is accused in Jakkanpur P.S. Case No. 614 of 2019 and his wife, known as 'Bhabhi' are supposed to reach at Anishabad Police Colony. Consequently, raid was laid and co-accused Guddu Kumar and Radha Devi were apprehended and from the possession of co-accused, Radha Devi, total 19.45 grams of brown sugar were recovered. The apprehended co-accused persons disclosed the name of the petitioner and other co-accused persons as their accomplice.

Learned counsel for the petitioner submits that the name of the petitioner is Dayal Jha whereas co-accused Guddu Kumar disclosed the name of his accomplice as Dayal Raj, hence the police, only on the basis of suspicion, has maliciously roped the petitioner in the present case. It is further submitted that no recovery has been made from the conscious physical possession of the petitioner and co-accused, Guddu Kumar, on whose confession, the name of the petitioner sprang up, has



been granted bail by a Co-ordinate bench of this Court, vide order dated 01.06.2020, passed in Cr. Misc. No. 9537 of 2020, whereas, other similarly situated co-accused Abhimanyu Singh has been granted bail by another Co-ordinate bench of this Court vide order dated 04.06.2020, passed in Cr. Misc. No. 17866 of 2020 and co-accused Mithilesh Kumar has been granted bail vide order dated 16.07.2020, passed in Cr. Misc. No. 20430 of 2020. Moreover, investigation has already been concluded and in the present situation, created due to pandemic, Covid-19, since the court proceeding is not functional in physical mode, there is no likelihood of trial being concluded in near future.

Learned APP for the State submits that the name of the petitioner sprang up on the confession of apprehended co-accused persons.

Considering the fact that no recovery has been made from the possession of the petitioner, the investigation has already been concluded, period under custody, other similarly situated co-accused persons have been granted bail by different Co-ordinate benches of this Court and the trial is not likely to be concluded due to the pandemic, Covid-19, let the petitioner above named be released on bail for the present provisionally



for a period of three months on furnishing one surety to the satisfaction of the learned Additional District Judge-V, Patna, in connection with Special Case No. 137 of 2019, arising out of Gardanibagh P.S. Case No. 619 of 2019.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned .. Additional District Judge-V, Patna, in connection with Special Case No. 137 of 2019, arising out of Gardanibagh P.S. Case No. 619 of 2019.

The learned Court below will be at liberty to extend



the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

The learned court below will be at liberty to cancel the bail bonds of the petitioner if he defaults for three consecutive occasions during trial.

Accordingly, the present application is disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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