

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20727 of 2021

Arising Out of PS. Case No.-131 Year-2019 Thana- RAJPUR District- Buxar

RAM NIWAS CHOUHAN @ RAM NIWAS NONIA Son of Bhuwar
Chouhan @ Baijnath Nonia Resident of Village - Tilkara, P.S.- Rajpur,
District - Buxar (Bihar).

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Raj Narayan Mishra, Advocate
For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-03-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

This is a fresh application filed on behalf of the
petitioner for grant of regular bail in connection with N.D.P.S.
Case No. 05/2019 arising out of Rajpur P.S. Case No. 131 of
2019 registered for the offences under Section 20(1)(b) and
22(e) of N.D.P.S. Act, 1985.

Earlier, the prayer for bail of the petitioner was
allowed by this Court vide order dated 12.11.2020 which is
being extracted hereunder for a ready reference:-

“Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by office within
four weeks after start of normal functioning of the
Court.

Heard learned counsel for the petitioner and Ms.
Dr. Indihar Kumari, learned A.P.P. for the State.



Petitioner in the present case is seeking regular bail in connection with N.D.P.S. Case No. 05/2019 arising out of Rajpur P.S. Case No. 131 of 2019 registered for the offences punishable under Section 20(1)(b) and 22(e) of N.D.P.S. Act, 1985.

Learned counsel for the petitioner submits that the recovery of 14.320 Kg. of Ganja has been made from the house which is in possession of the joint family, this petitioner has otherwise no criminal antecedent and he is in custody since 18.01.2020.

Learned A.P.P. for the State does not dispute that the recovery is from a joint house and that the quantity of Ganja is less than a commercial quantity. It is also not a submission of the State that release of the petitioner at this stage is likely to interfere with the course of trial.

Having regard to the facts and circumstances of the case and the submissions taken note of hereinabove, this Court directs release of the petitioner above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned District and Special Judge N.D.P.S. Act, Buxar, in connection with N.D.P.S. Case No. 05/2019 arising out of Rajpur P.S. Case No. 131 of 2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly



make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

And further condition that he will abide by and observe the guidelines and directives of the Government of India and the State Government with regard to COVID-19 Pandemic.”

It appears that in terms of one of the conditions prescribed by this Court, when the learned court below verified the criminal antecedent of the petitioner and it was found that he has got one case on his head which he had not disclosed before this Court, his bail bond was not accepted. The petitioner, thereafter, filed an application seeking modification of the order passed by this Court. A Criminal Miscellaneous Application bearing No. 6282/2021 was filed, but this Court did not entertain the said modification application. This Court passed the following order on 03.02.2021:-

“Learned counsel for the petitioner submits that in earlier application being Cr. Misc. No. 29235/2020, the petitioner had inadvertently not mentioned that he has got one criminal antecedent and for this reason



the petitioner could not satisfy the condition imposed by this Court while granting him bail on 12.11.2020. The petitioner is looking for modification of the said order.

Learned counsel for the petitioner submits that the order dated 12.11.2020 may be modified allowing the petitioner to make statement to this effect that he has got one criminal antecedent.

This Court does not appreciate such submission of learned counsel for the petitioner. The petitioner himself failed to narrate the correct criminal antecedent in the main petition and after passing of the order with a condition for grant of bail, when he has found himself in trouble the present application has been filed.

Considering the conduct of the petitioner as well as the manner in which he wants to modify his main petition, this court would not allow him to do so. Such prayers are misconceived.

The Modification Application is, thus, dismissed.

If so advised, the petitioner may file fresh application for grant of bail.”

In the light of the aforesaid observations, this fresh application has been filed. It is disclosed that the petitioner has got one criminal antecedent being Rajpur P.S. Case No. 130/2019 registered under Section 30(a) of Excise Act, in which he is on bail.

Learned counsel for the petitioner submits that the Pairvikar is his young aged son who was residing outside his village and was neither aware regarding one case pending



against the petitioner nor he was apprised of the same by the petitioner, in such circumstance, one criminal antecedent was not disclosed. It is further submitted that for his fault the petitioner has already suffered more than three months additional period in custody, and considering this, his prayer for bail may be allowed.

Mr. Akhileshwar Dayal, learned A.P.P. for the State is present. There is no opposition to this application.

In the circumstances stated above, considering that for his fault the petitioner has already remained in jail for an additional period of three and half months approximately, this Court directs release of the petitioner on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act, Buxar, in connection with N.D.P.S. Case No. 05/2019, CIS No. 05/2019, arising out of Rajpur P.S. Case No. 131/2019, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of



the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

