

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.8780 of 2021**

Arising Out of PS. Case No.-317 Year-2019 Thana- BRAHMPUR District- Buxar

SANTOSH PANDEY Son of Yamuna Pandey Resident of Village - Sapahi,
P.S. - Buxar, District - Buxar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms.Usha Rai, Advocate

For the Opposite Party/s : Mr.Parmanand Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 30-04-2021 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 learned A.P.P. for the State.

Petitioner, in the present case, is seeking regular bail in connection with Excise G.R. No. 637/2019 arising out of Brahmpur P.S. Case No. 317/2019 registered for the offences punishable under Section 30(a) of Excise Act.

This is the second attempt of the petitioner to obtain bail. He is in judicial custody since 04.12.2019.

Learned counsel for the petitioner submits that considering the criminal antecedent of similar nature, the



learned predecessor Bench of this Court had rejected the prayer for bail of the petitioner vide order dated 03.02.2020 passed in Cr. Misc. No. 5607/2020. While rejecting the prayer for bail of the petitioner on the ground of criminal antecedent, the learned Predecessor Bench had observed that if the trial is not concluded within a period of five months, the petitioner will be at liberty to renew his prayer for bail.

Learned counsel submits that he has made specific statement in paragraph '15' of the present petition that till date no progress has been made in the trial despite direction of the Hon'ble Court. It is his submission that once the petitioner was arrested in this case he has been taken on remand in all other cases of similar nature. Till now the petitioner has got bail in all the cases stated in paragraph '3' of the present application except one in Brahmpur P.S. Case No. 598/2018 in which his prayer for bail is pending.

Learned counsel submits that considering the observations of the learned Predecessor Bench and the fact that the petitioner has remained in jail since 04.12.2019, trial is not likely to be concluded in near future, this Court may consider release of the petitioner on bail on such terms and conditions which may be imposed upon him.



Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner stating his criminal antecedent of similar nature under the Excise Act, this Court having noticed the observation of the learned Predecessor Bench of this Court giving liberty to the petitioner to renew his prayer for bail after five months, the specific statement of the petitioner that since the order passed by this Court on 03.02.2020 there is no progress in the trial and the trial is not likely to be concluded in near future whereas in all other cases except in one case the petitioner is on bail, 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 Additional District & Sessions Judge – II – cum – Special Judge (Excise), Buxar, in connection with Brahmpur P.S. Case No. 317/2019, 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.

Further condition that the petitioner shall appear in course of trial on each and every date fixed in the matter, two consecutive defaults in putting appearance in the learned trial court shall lead to cancellation of bail of the petitioner by the learned court below.

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. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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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'.

