

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.6342 of 2021**

Arising Out of PS. Case No.-22 Year-2017 Thana- D.R.I District- Patna

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ALI AHMAD, Son of Late Peer Mohammad @ Peeru Resident of Village -
Balchat, P.O.- Tikra Usma, P.S.- Jaitpur, Tehsil- Nawabgunj, Dist.- Barabanki
State - Uttar Pradesh

... .. Petitioner/s

Versus

The Union Of India Through The DRI Regional Unit, Patna, Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr.Majid Mahboob Khan, Advocate
For the Union of India	:	Mr.Uma Shankar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-08-2021 Heard Mr. Ramakant Sharma, learned Senior Counsel

for the petitioner and learned counsel for the Central

Government.

Petitioner, in the present case, is seeking regular bail

in connection with Special Case No. 128 of 2017 (arising out of

Unit Case No. 14/17-18 registered under Sections 21, 23, 25 and

29 of the Narcotic Drugs and Psychotropic Substances Act,

1985. He is in custody since 30.08.2017.

Learned Senior Counsel for the petitioner submits that

as per the First Information Report altogether 6075 grams i.e.

more than 6 Kg. of Heroine were found in the truck which

belong to this petitioner. The said Heroine has been later on

found to be a narcotic substance i.e. Morphine as per the laboratory report.

Learned Senior Counsel further submits that this petitioner along with the Driver and Khalasi were taken into custody by the officers of the Directorate of Revenue Intelligence. Pointing out to the orders passed by learned coordinate Benches of this Court in the case of Driver and Khalasi of the vehicle in Cr. Misc. No. 71524/2019 and Cr. Misc. No. 7069/2019 respectively, learned Senior Counsel submits that they have been granted bail. The learned coordinate Bench has, while granting bail to the Driver of the vehicle, noticed the submission of learned A.S.G. that the driver had made statement that he and the owner of the vehicle (this petitioner) were aware of the three packets of Heroine which were concealed in the vehicle. After noticing the submission that the driver had in fact physically helped the owner in hiding the consignment in the food of the truck, the learned coordinate Bench allowed bail to the driver vide order dated 27.05.2020.

Learned Senior Counsel submits that though the petitioner is the owner of the vehicle, his case would be standing on similar footing with that of the driver and considering that the petitioner has remained in custody for almost four years but

till date the charge has not been framed, the petitioner deserves privilege of bail.

On the other hand, learned counsel for the Central Government has opposed the prayer for bail of the petitioner. It is submitted that the quantity recovered from the truck is a commercial quantity and considering that the petitioner is the owner of the vehicle he does not deserve privilege of regular bail at this stage. It is submitted that the delay has taken place in the trial but that may be attributed to the present days pandemic situation.

Having heard learned Senior Counsel for the petitioner and learned counsel for the Central Government, though this Court has noticed that the petitioner has remained in jail for almost four years but the charge has not been framed, considering the fact that he is the owner of the vehicle and the quantity of narcotic substance is a commercial quantity and bar of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 would be attracted, this Court is not inclined to enlarge the petitioner on bail at this stage.

The petitioner has certainly a right to get the speedy trial and having spent almost four years in custody, if the charge has not been framed till date, it is high time for the trial court to

proceed with the matter, take steps towards framing of charge preferably within a period of one month from today and conduct the trial by keeping the matter on short dates. The prosecution must cooperate in course of trial.

Despite the aforesaid observations and directions if the trial is not concluded within a period of one year from the date of start of physical functioning of the court, the petitioner may renew his prayer for bail.

The application stands disposed off accordingly.

(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'.