

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56809 of 2021

Arising Out of PS. Case No.-146 Year-2019 Thana- INDUSTRIAL District- Bhagalpur

Surendra Kumar Sah, son of Late Jagdeesh Prasad Sah, resident of village -
K.B. Lal Road, Nathnagar, P.S.- Nathnagar, District- Banka.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Brij Nandad Prasad, Advocate

For the Opposite Party/s : Mr.Md. Fahimuddin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 22-12-2021 Heard learned counsel for the petitioner and Md.
Fahimuddin, learned A.P.P. for the State.

This is the second attempt of the petitioner to obtain bail in connection with N.D.P.S. Case No. 27/2019 (corresponding to Industrial P.S. Case No. 146/2019) registered for the offence under Sections 20(b)(11)(c) and Section 22 of the Narcotic Drugs and Psychotropic Substances Act (in short the 'N.D.P.S. Act, 1985'). Petitioner has no criminal antecedent as stated in paragraph '3' of this application.

Earlier the prayer for bail of the petitioner was rejected taking note of the submission that the 60 Kg. of Ganja was seized from the vehicle and the petitioner was arrested on the spot. The contention of the petitioner remains that the petitioner had no concern with the Ganja or the vehicle in question.



In addition to that, learned counsel for the petitioner submits that the co-accused who was identically situated with the petitioner namely, Manohar Yadav @ Mantu has been granted bail by a learned coordinate Bench of this court in Cr. Misc. No. 29709/2020.

On the other hand, learned A.P.P. for the State submits that in fact the learned coordinate Bench has granted bail to the co-accused after noticing that the 60 Kg. of Ganja was seized from the Maruti Suzuki Car whereas the said co-accused was said to be the driver of the Scorpio vehicle from which no contraband was recovered.

Be that as it may, going through the report from the learned trial court this court notices that in this case the charge was framed as back as on 07.02.2020 but till date only one official witness out of three have been examined. The trial court has issued summon, bailable warrant and thereafter non-bailable warrant against the rest official witnesses and is expecting that the case may be disposed of within six months from the date of the report i.e. 22.11.2021. The petitioner is in custody in connection with this case since 31.10.2019. The court is of the considered opinion that if the official witnesses are not cooperating in course of trial and the trial is pending for almost



two years without production of any prosecution witness, the petitioner cannot be kept in incarceration for an indefinite period, therefore this court directs that in terms of letter no. 45 dated 22.11.2021 of the learned trial court if the trial is not concluded within a period of six months and for no reason attributable to the petitioner, the petitioner shall be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 10th Additional Sessions Judge, Bhagalpur in connection with N.D.P.S. Case No. 27/2019 (corresponding to Industrial P.S. Case No. 146/2019), subject to the condition as laid down under Section 437 (3) Cr.P.C.

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)

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'.

