

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12471 of 2022

Arising Out of PS. Case No.-44 Year-2017 Thana- BACHHHWARA District- Begusarai

Birendra Rai Son Of Bhagwan Rai R/O Village- Chapra, P.S.- Patori, District-
Samastipur

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar Pandey

For the Opposite Party/s : Mr. Nawal Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE A. M. BADAR

ORAL ORDER

3 30-11-2022 The applicant/accused in Crime No. 44/2017

registered with Police Station Bachhawara for the offences
punishable under Sections 8, 20(c) and 25 of the N.D.P.S. Act
by this application has reviewed his prayer for grant of bail.

The learned counsel appearing for the applicant has pointed out the order dated 05.04.2021 rejecting the bail application of the applicant with an observation that if there is no substantial progress in the trial even after nine months, then the applicant may renew his prayer for bail. It is reported by the learned Advocate for the applicant and undisputed by the learned APP that the applicant is behind bars from 27.03.2017. The learned counsel for the applicant argued that even after lapse of about five years and nine months, the trial has not proceeded inch ahead and recording of evidence has not started.

It is further argued that the applicant is mentally ill and in all probability he just climbed on the Truck driven by the co-accused and is falsely implicated in the crime in question.

The learned APP oppose the application by contending that the Crime in question is serious and therefore the applicant is not entitled for bail.

Perusal of the FIR reveals that on the basis of secret information that contraband Ganja is being transported by Truck No. NL02L-5415, a raid was conducted by intercepting container Truck. It was found that Ganja was concealed in the secret chambers located behind the driver's seat. Co-accused Raj Kumar was driving that container Truck whereas the applicant was sitting in the Truck. The FIR itself reveals that the applicant **weighed** in that Truck at the Toll Plaza. He is described in the FIR as liner. The FIR reveals that the Truck started its journey from Tripura and Ganja was loaded in that Truck by one Lakshman Das **whether he is an accused**. The applicant, even according to the FIR had not boarded that Truck from Tripura. This fact assumes importance in the light of averment made in paragraph – 10 of the bail application to the effect that the applicant is suffering from Septic Meningitis. It is also seen that the applicant is not having any criminal

antecedents and he is a young boy of aged about 19 years at the time of the incident.

The concerned Trial Court has furnished report dated 11.10.2022 mentioning that after framing of the charge on 17.07.2018, the work of recording of evidence is not commenced. It is reported that though on 05.08.2022 two prosecution witnesses attended the Court, the accused was not produced and as such their evidence was not recorded. In this view of the matter, considering the nature of evidence against the applicant as well as the fact that he is behind bars from 27.03.2017, the application deserves to be allowed and therefore the order.

I have considered the submissions so advanced and also perused the materials placed before me.

(i). The application is allowed.

(ii). The applicant/accused in Crime No. 44/2017 registered with Bachhawara Police Station for the offences punishable under Sections be released on bail on executing P.R. bond of Rs.25000/-(Rupees Twenty Five Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions:

(I). The applicant should not extend any threat,

promise or inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II). The applicant should cooperate the trial in expeditious disposal of the trial against him.

(III). The applicant should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV). The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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