

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19795 of 2021**

Arising Out of PS. Case No.-135 Year-2017 Thana- CHANDAN District- Banka

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SADHU KHAIRA @ SADHU PUJHAR SON OF BURDHO PUJHAR R/O
VILLAGE- KATHARATANRR, P.S.- ANANDPUR (CHANDAN),
DISTRICT- BANKA. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 29806 of 2021

Arising Out of PS. Case No.-135 Year-2017 Thana- CHANDAN District- Banka

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DEKALU RAI @ DAKALU RAY S/O LATE BHADO RAI R/O VILLAGE-
HARDIA, P.S.-CHANDAN, DISTRICT-BANKA Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 19795 of 2021)

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

For the Opposite Party/s : Mr. A.P.P.

(In CRIMINAL MISCELLANEOUS No. 29806 of 2021)

For the Petitioner/s : Mr. Dhananjay Kumar Pandey, Adv.

For the Opposite Party/s : Mr. A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

8 05-05-2022 In compliance of the order dated 26.04.2022, the

Superintendent of Police, Banka is physically present in the

Court.

At the very outset, by way of a show cause-cum
affidavit, S.P., Banka tenders an unqualified apology for the
inconvenience caused to this Court and the same is accepted
and taken on record.

Perused the show cause affidavit filed by the



Superintendent of Police, Banka, wherein it is stated that he has submitted the proposal for obtaining sanction under U.A.P.A. Act to the District Magistrate, Banka on 28.04.2022 and the same has been forwarded by the District Magistrate, Banka on 02.05.2022 to the S.T.F. (H.Q.) Patna with recommendation for grant of sanction under U.A.P.A. Act.

It has categorically been stated in the said affidavit that the I.O. of the case at hands is S.D.P.O., Belhar and on account of his negligence, sanction report could not have been obtained from the authorities concern.

On query made by this Court as to what action has been taken against the erring I.O./ S.D.P.O, Belhar, the S.P., Banka informs that a show cause notice has been issued to him for his negligence and misconduct and he assured this Court that stern action shall be taken against the erring I.O./S.D.P.O., Belhar for his negligence and the gross disobedience committed by him causing gross inconvenience to this Court. Therefore, he seeks further 15 days time in order to get sanction report from the competent authority and also to file action taken report against the erring I.O. before this Court.

In view of the aforesaid, the Superintendent of



Police, Banka is allowed 15 days time to apprise this Court about the subsequent positive developments by way of filing an affidavit in this case.

List this case on **21.06.2022** on which day the Superintendent of Police, Banka shall remain physically present in the Court.

Heard learned counsel for the petitioners and the learned A.P.Ps. for the State.

The petitioners seek bail in a case registered for the offence under Sections 147, 148, 149, 121, 121(A), 120(B) of the Indian Penal Code and Section 3/4 of the Explosive Substance Act and also Sections 16, 17, 18, 19, 20, 21, 22 of U.A.P. Act and under Section 17 of the C.L.A. Act.

On the disclosure made by the petitioner Sadh Khaira @ Sadhu Pujhar, a bag having 50 kg of explosive substance in six plastic containers has been recovered. The petitioners are said to be the member of unlawful assembly.

Learned counsel appearing for the petitioners submits that the petitioners are innocent and have falsely been implicated in this case. In fact, nothing has been recovered from the conscious possession of the petitioners, but according to the F.I.R. on disclosure made by the



petitioner, Sadhu Khaira @ Sadhu Pujhar, a bag having 50 kg of explosive substance has been recovered from the land of Padariya forest. So far as petitioner, namely, Dekalu Rai @ Dakalu Ray is concerned, nothing incriminating has been recovered from his exclusive possession nor he has been apprehended from the spot rather his name transpired in this case on the basis of disclosure made by the co-accused, Sadhu Khaira @ Sadhu Pujhar, who is also petitioner before this Court. It is further submitted that both the petitioners have been apprehended on the basis of suspicion only. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioners. Both the respective petitioners have been rotting in judicial custody since 5.09.2017 and 19.02.2018.

Vide order dated 16.11.2021, a report with regard to present stage of trial was called for, which has been received and from perusal thereof, it is evident that although charge sheet has been submitted by the police on 05.12.2017 against the petitioners but case is still pending for taking cognizance before the Magistrate as the sanction report has not been obtained by the competent authorities.

As aforesaid, S.P. Banka has assured this Court that



sanction with regard to prosecution of the petitioners shall be obtained within 15 days from the date of this Court.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioners and submits that the petitioner, Sadhu Khaira @ Sadhu Pujhar bears one criminal antecedent other than the present one and petitioner, Dekalu Rai @ Dakalu Ray, carries three more cases other than the present one.

Considering the facts and circumstances of the case and the period of custody, let the, above named, petitioners be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with Chandan (Anandpur) P.S. Case No. 135 of 2017 with the following conditions:-

(1) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be canceled by the Court below.



(2) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

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

(Rajesh Kumar Verma, J)

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