

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25232 of 2022

Arising Out of PS. Case No.-245 Year-2018 Thana- BAKHTIYARPUR District- Patna

Arodh Kumar @ Arodh Prasad S/o Rana Devendra Prasad R/o village- Naya
Tola, Madhopur, P.S.- Bakhtiyarpur, District- Patna

... .. Petitioner/s

Versus

The Union Of India Through Authorized Officer N.D.P.S. Act India

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Sewak Prasad, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 05-08-2022 Heard learned counsel for the petitioner and Mr. Jitendra Kumar Singh learned APP for the State through virtual mode in view of COVID-19.

Let the defect(s) be removed within four weeks of the complete start of the physical Court in normal course.

The petitioner is in judicial custody in connection with Spl. Case No.154/2018 arising out of Bakhtiyarpur P.S. Case No.245/2018 instituted under Sections 20/22 of NDPS Act.

As per the FIR, the police upon information, raided the joint house of three accused persons including the petitioner herein and it is further alleged that 9 Kg. 500 Gram of ‘*Ganja*’ was recovered/seized. Accordingly, the FIR was lodged.

Learned counsel for the petitioner submits that a bare



perusal of the FIR shows that the '*Ganja*' has been recovered from the joint property and accordingly all the owners have been implicated in this case. He further submits that save and except a case of assault lodged against him, there is no criminal antecedent of the same nature. He lastly submits that one of the co-accused namely Anil Kumar Rai @ Anil Rai has since been released on bail vide Cr. Misc. No.63772 of 2018.

Learned APP appearing for the State submits that although perusal of FIR shows that the recovery/seizure has been made from the joint property, the conduct of the petitioner is not fair inasmuch as the FIR was lodged in 2018 but he finally chose to come within the judicial custody only on 24.01.2022. Considering the aforesaid facts, the petitioner does not deserve bail.

It is a fact that the conduct of the petitioner is not appreciable inasmuch as the FIR was lodged in 2018 and as per the submission of the learned counsel for the petitioner he had preferred the Cr. Misc. No.71736/2018 for grant of anticipatory bail which was rejected on 09.01.2019, still he defied the law and came into judicial custody only in 2022. As such, this Court at the first occasion was not inclined to grant the privilege of bail.



However, learned counsel for the petitioner vehemently submitted that considering the fact that the recovery /seizure has been made from the joint property for which all the persons have been made accused, as one of the co-accused has since been enlarged on bail, he may be given a chance to reform himself although accepting the fact that the petitioner has delayed in coming into the judicial custody. He submits that he enlarged on bail, the petitioner is ready to abide by all the terms and conditions imposed by this Court.

Taking into account the aforesaid facts as also that charge-sheet stands submitted, he is in custody since 24.01.2022 and one of the co-accused has since been granted bail as also the fact that the recovery/seizure was from the joint property, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each in connection with Spl. Case No.154/2018 arising out of Bakhtiyarpur P.S. Case No.245/2018 to the satisfaction of learned Sessions Judge/Special Judge, Patna, subject to certain conditions which is necessary to be imposed considering the conduct/attitude of the petitioner:

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show



his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reasons will entail cancellation of his bail by the Trial court itself;

(iii) the petitioner shall appear before the concerned police station every month for next one year to mark his presence;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to steps for cancellation of his bail bonds.

With the aforesaid observations, the bail application is allowed.

(Rajiv Roy, J)

Prakash Narayan /-

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