

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35409 of 2022

Arising Out of PS. Case No.-342 Year-2020 Thana- SONO District- Jamui

Lakhan Yadav Son Of Shankar Yadav R/O Village- Chilka Khar, P.S.- Sono,
District- Jamui

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Niranjan Parihar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 21-09-2022 The learned counsel for the petitioner is directed to remove all the defects pointed out by the Stamp Reporter within one month.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Sono (Charkapathar) P.S. Case No.342 of 2020 registered for the offences punishable under Sections 147, 149 and 120(B) of the Indian Penal Code, Sections 3/4 of the Explosive Substances Act, Sections 18/21 of the N.D.P.S. Act and Sections 16, 17, 18, 19, 20 and 22 of UAP Act (UAPA).

As per the allegation, the petitioner was arrested in Sono (Charkapathar) P.S Case No.340 of 2020 under Sections 25(1-b)a, 26 and 35 of the Arms Act and during the course of investigation in the said case the petitioner made a disclosure statement, on that basis five hundred grams narcotic drug suspected to be Ganja, 10 Kg explosive materials suspected to



be Ammonium Nitrate and four detonators were recovered from the forest and petitioner is alleged to have been involved in Naxal activities and used the alleged recovered explosive materials for making bombs.

The main submissions advanced by the learned counsel Mr. Nirajan Parihar for the petitioner are that the petitioner has been languishing in jail since 26.12.2020, the alleged narcotic contraband comes under the purview of small quantity and there is no expert's opinion with regard to the alleged recovered explosive materials and as per the FIR the petitioner was arrested in connection with Sono (Charkapathar) Case No.340 of 2020 in which he has got bail and as per the prosecution the petitioner made disclosure statement in the said Charkapathar P.S case and on that basis the alleged recovery of the materials was made, in fact the petitioner was arrested on 23.12.2020 regarding which his wife filed a Miscellaneous petition in the Court of C.J.M., Jamui on 24.12.2020, on that basis a report was called for and then the instant case was shown as having lodged on 16.12.2020 but the FIR of the said case was sent to the Court concerned on 02.01.2021 and the said delay in sending the FIR has not been explained. Further submission is that against the petitioner investigation has been completed and



there is criminal antecedent of one case which was a part of the same transaction relating to the instant case and the petitioner has got bail in the said criminal antecedent case.

Learned APP Mr. A.G. appearing for the State has opposed the bail prayer.

Having considered the above submissions and mainly taking into account the petitioner's custody period and also the facts that the recovery of the alleged articles was made in connection with the investigation being made in respect of Charkapathar Case No.340 of 2020 but the police lodged the instant FIR in respect of the alleged recovered materials and the petitioner has got bail in Charkapathar Case No.340 of 2020 in which he is stated to have made disclosure statement leading to the recovery of alleged articles and except the said Charakapathar P.S. Case No.340 of 2020 there is no any other police case as criminal antecedent against the petitioner, in the opinion of this Court a lenient approach can be taken in respect of the petitioner's prayer, let the petitioner be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Sono (Charkapathar) P.S. Case No.342 of 2020, on the following conditions:-



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

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

(3) One of the bailers shall be a close relative of the petitioner who has sworn affidavit in this miscellaneous petition.

(4) The Court below will verify the criminal antecedent of the petitioner but acceptance of bail bond will not be delayed on account of process of verification of the said criminal antecedent. If any criminal antecedent of the petitioner other than Sono (Charkapathar) P.S. Case No.340 of 2020 is found then the Court below shall take strict action against him for cancellation of his bail bond.

(Shailendra Singh, J.)

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