

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.472 of 2022

Arising Out of PS. Case No.-18 Year-2017 Thana- GOVERNMENT OFFICIAL COMP.
District- West Champaran

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Ashfak Alam @ Ashfaque Alam @ Ashfak Hussain @ Ashfaque Hussain S/O
Muzamine Miya @ Mojmil Miya R/o village- Inarwa Bazar, P.O. and P.S.-
Inarwa Bazar, Bettiah, District- West Champaran, Bettiah

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India New Delhi

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rana Vikram Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 23-11-2022 Heard learned counsel appearing on behalf of the
petitioner and learned counsel appearing on behalf of the State.

Let the defect(s), if any, be removed within a period
of four weeks from today.

At the outset, it is submitted by learned counsel
appearing on behalf of petitioner that the present is the second
bail petition, as the bail petition earlier moved by petitioner was
rejected by one of the learned Co-ordinate Bench of this Court
through Cr. Misc. No. 73431 of 2018 vide order dated
14.12.2018 and subsequent thereof, the petitioner is in
continuous custody since 18.09.2017.

The petitioner seeks bail in connection with NCB P.S.



Case No. 18 of 2017 registered for the offence under Sections 43 read with 8(c), 20(b)(ii)(c) and 23(c) of the N.D.P.S. Act, 1985.

The accused/petitioner is named in the F.I.R. and is in custody since 18.09.2017.

The allegation against the petitioner is to have in possession of 102.05 kg of **Charas**, while crossing Indo-Nepal border.

Learned counsel appearing on behalf of the petitioner submitted that earlier a direction was given by this Court, while rejecting the prayer of bail through Cr. Misc. No. 73431 of 2018 vide order dated 14.12.2018 to conclude the trial of petitioner within one year. A report was also called by this court vide order dated 31.05.2022, as regard to stage of trial, where it appears that in last 5 years, only single witness was examined by learned Trial Court. It is submitted that the petitioner is in custody since more than 5 years and certainly in want of examination of prosecution witness, the petitioner cannot be kept behind the bar for indefinite period of time. While travelling over the argument, learned counsel relied upon the report of ***Supreme Court Legal Aid Committee Representing Undertrial Prisoners vs. Union of India and others reported in (1994) 6 SCC 731***



and moreover, investigation has been completed, for which, charge-sheet has been submitted, as such, there is no chance of tampering with the evidence.

Learned APP opposes the prayer of bail.

Considering the facts and circumstances as mentioned above and by taking note of progress of trial in last 5 years, where petitioner is in custody since 18.09.2017 i.e., more than 5 years, coupled with the fact that charge-sheet has been submitted, let the petitioner, above named, is directed to be released on bail in connection with NCB P.S. Case No. 18 of 2017 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Sessions Judge-cum-Special Judge (N.D.P.S.), West Champaran, Bettiah/concerned court, subject to the conditions as mentioned under Section 437 (3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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