

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11384 of 2023

Arising Out of PS. Case No.-145 Year-2021 Thana- BIDUPUR District- Vaishali

RAKESH KUMAR S/o Ram Babu Ray R/o Village-Chaksikandar, P.S.-
Bidupur, Distt- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate

For the Opposite Party/s : Mr. Brajendra Nath Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 26-04-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

Petitioner seeks bail, who is in custody since
20.03.2021 in connection with Bidupur P.S. Case No. 145 of
2021, F.I.R. dated 19.03.2021 for the offences punishable under
Sections 20, 21, 22, 23, 24 of the N.D.P.S. Act.

Earlier the bail petition of the petitioner was rejected
vide order dated 27.04.2022 passed in Cr. Misc. No. 51067 of
2021 and thereafter, the petitioner again move before this
Hon'ble Court in Cr. Misc. No. 64784 of 2022 which was
dismissed as withdrawn vide order dated 07.12.2022 with a
liberty to move a fresh application before the learned court
below.

Recovery is of total 28.400 kg. Ganja.



Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the F.I.R. as well as seizure list that all together 28.400 kg. of Ganja was recovered from the possession of the petitioner and other co-accused person. He further submits that nothing has been recovered from the conscious possession of the petitioner rather the recovery has been made from the motorcycle in question and there is non compliance of Section 50 of the N.D.P.S. Act. He further submits that similarly situated, co-accused, namely, Raj Kumar has been granted bail on the ground that the case is at the stage of prosecution evidence by a co-ordinate Bench of this Court vide order dated 29.03.2023 passed in Cr. Misc. No. 56990 of 2022. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 20.03.2021.

Vide order dated 15.03.2023 a report was called for with regard to the present stage of trial. Report dated 25.03.2023 of the learned trial court reveals that till date no witnesses have been examined by the prosecution and the case is pending for the examination of the prosecution witnesses.



Learned counsel for the petitioner further submits that in view of the report of the learned trial court that the trial is not concluded in near future and the petitioner is in custody since 20.03.2021 and similarly situated co-accused has been granted bail by a co-ordinate Bench of this Hon'ble Court.

Considering the aforesaid facts and circumstances as well as period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned District and Sessions Judge, Viashali at Hajipur in connection with Bidupur P.S. Case No. 145 of 2021, subject to 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 and shall remain physically present as directed by the court 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. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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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