

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.14338 of 2023

Arising Out of PS. Case No.-333 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

MD. TAUHIR SON OF MD. SULTAN R/O VILL.- DEOGAN, P.S.-
BOCHAHA, DISTT.- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Parasmani, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 12-04-2023 Heard learned counsel for the petitioner and the
learned A.P.P. for the State.

The petitioner seeks bail in connection with
Bochaha P.S. Case No. 333 of 2020 (NDPS Case No. 137 of
2020) dated 07.12.2020 a case registered for the offence
under Sections 20 and 22 of the N.D.P.S. Act.

Recovery is of 580 grams of Charas.

Earlier the prayer for bail of this petitioner has
been rejected on vide order dated 20.07.2022 passed in Cr.
Misc. No. 2382 of 2022 considering the case of the petitioner
on merit. Now the present application has been filed on
behalf of the petitioner on the ground that the petitioner is
in custody for more than two years and there is no



substantial progress in the trial although on the earlier occasion, learned trial court has been directed to expedite the trial vide order dated 20.07.2022.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. He further submits that it appears from the F.I.R. and the seizure list that altogether 580 gram of Charas have been recovered from the possession of the petitioner. He further submits that alleged recovery is less than the commercial quantity. In fact, nothing incriminating has been recovered from the exclusive possession of the petitioner.

A report with regard to present stage of the trial has been called for by this Court vide order dated 15.03.2023 which has been received and forms part of this application at Flag-A. On perusal thereof, it would reveal that charge has been framed in this on 30.09.2022 and out of four charge sheet witnesses, only one witness has been examined as of now and remaining three witnesses are yet to be examined.

Learned counsel appearing for the petitioner referring to the aforesaid report submits that the trial of this



case is not likely to be concluded in near future and the petitioner is languishing in judicial custody since 08.12.2020. i.e more than two years.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner.

Considering the fact that the trial has got no substantial progress and also the fact that alleged recovery is less than the commercial quantity and Section 37 of the NDPS Act does come into play in this case as well as the period of custody of the petitioner, let the, above named, petitioner 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 learned 2nd Additional Sessions Judge, Muzaffarpur in connection with N.D.P.S. Case No. 137 of 2020 arising out of Bochaha P.S. Case No. 333 of 2020 with 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled 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.

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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