

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 29700 of 2022

Arising Out of PS. Case No.-2 Year-2020 Thana- GOVERNMENT OFFICIAL COMP.
District- Begusarai

SATVEER KUMAR S/o Ramvilas Singh R/o Village - Karari Pipariya, P.S. -
Pipariya, District - Lakhisarai.

... .. Petitioner/s

Versus

1. THE UNION OF INDIA THROUGH NARCOTIC CONTROL BUREAU,
BIHAR
2. The State of Bihar

... .. Opposite Party/s

For the Petitioner/s : Mr Umesh Prasad Singh, Sr Advocate with
Mr Vaibhava Veer Shanker, Advocate
For the Opposite Party/s : Dr K N Singh, ASG
Mr Manoj Kr Singh, CGC

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL ORDER

10 04-01-2023

Heard learned senior counsel for the petitioner and
learned counsel for the opposite parties.

The petitioner seeks bail in Narcotic Drugs &
Psychotropic Substances (for brevity, **NDPS**) Case No 7 of 2020
arising out of Narcotic Control Bureau Crime No 2 of 2020
registered for the offence punishable under Sections 8 (c), 20 (b)
(ii) (c) and 29 of NDPS Act, 1985.

Petitioner's prayer for bail has earlier been rejected by
this Court on 25.03.2021 in Cr Misc No 395 of 2021 (Annexure
1) having regard to recovery of 204 kilograms of **Ganja** from
the vehicle in which petitioner along with Driver was travelling
and apprehended.

Learned counsel for the petitioner submits that the
prosecution report suffers from various lapses. It is further



submitted that co-accused Naveen Jha, who is stated by the Driver to be the consignor of goods, has been allowed bail by this Court in Cr Misc No 23314 of 2020. It is further submitted that the petitioner has, by now, remained in custody for nearly three years.

Learned counsel for the Union of India submits that all efforts are being taken to conclude the trial within the shortest possible period as the remaining witnesses are official witnesses. He further submits that since huge quantity, much more than commercial quantity, has been recovered and the Court has already considered the petitioner's prayer for bail earlier, there is no occasion for this Court to take a different view today.

One fact raised today, regarding grant of bail to co-accused Naveen Jha, was not considered in the earlier order. The said co-accused has been allowed bail by this Court considering the nature of his implication being the statement of co-accused and the fact that there was no recovery of any contraband substance. In case of petitioner, having regard to commercial quantity of recovery from the vehicle, prayer for bail was earlier rejected. On submission regarding petitioner remaining in custody for about three years, the Court would



refer to decision of Apex Court in the case of *Supreme Court Legal Aid Committee Representing Undertrial Prisoners -Versus- Union of India & Another*, reported in (1994) 6 *Supreme Court Cases 731* wherein the Hon'ble Apex Court has laid down certain guidelines for grant of bail in respect of commercial quantity. The directions issued by the Supreme Court was made applicable to the State of Bihar and some other States by a subsequent order passed in the same case reported in (1995) 4 *Supreme Court Cases 695*, relevant extract of the judgment reads as follows:

“We were told by the learned counsel for the State of Maharashtra that additional Special Courts have since been constituted but having regard to the large pendency of such cases in the State we are afraid this is not likely to make a significant dent in the huge pile of such cases. We, therefore, direct as under:

- (i) *Where the undertrial is accused of an offence(s) under the Act prescribing a punishment of imprisonment of five years or less and fine, such an undertrial shall be released on bail if he has been in jail for a period which is not less than half the punishment provided for the offence with which he is charged and where he is charged with more than one offence, the offence providing the highest punishment. If the offence with which he is charged prescribes the maximum fine, the bail amount shall be 50% of the said amount with two sureties for like amount. If the maximum fine is not prescribed bail shall be to the satisfaction of the Special Judge*



concerned with two sureties for like amount.

- (ii) Where the undertrial accused is charged with an offence(s) under the Act providing for punishment exceeding five years and fine, such an undertrial shall be released on bail on the term set out in (i) above provided that his bail amount shall in no case be less than Rs 50,000 with two sureties for like amount.*
- (iii) Where the undertrial accused is charged with an offence(s) under the Act punishable with minimum imprisonment of ten years and a minimum fine of Rupees one lakh, such an undertrial shall be released on bail if he has been in jail for not less than five years provided he furnishes bail in the sum of Rupees one lakh with two sureties for like amount.*
- (iv) Where an undertrial accused is charged for the commission of an offence punishable under Sections 31 and 31-A of the Act, such an undertrial shall not be entitled to be released on bail by virtue of this order.*

The minimum punishment provided in respect of allegations against the petitioner is ten years.

In view of Paragraph (iii) above, this Court would find that no case is made out to take a different view in the matter, even in view of the period of custody.

Prayer for bail is again rejected.

(Madhuresh Prasad, J)

M.E.H./-

U		T	
---	--	---	--

