

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34453 of 2023

Arising Out of PS. Case No.-278 Year-2021 Thana- MOTIHARI MUFASIL District- East
Champanan

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Osiyar Sahani Son of Rameshwar Sahani Village- Badaharava Kala Purvi Ps-
Kotwa Dist- E.Champanan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Tiwari, Advocate
For the Opposite Party/s : Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 12-07-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. In the present case, the petitioner seeks bail in connection with Motihari Muffasil P.S. Case No. 278 of 2021 registered on 01.06.2021 for the alleged offences under Sections 414, 420, 467, 468, 471 and 120(B) of the Indian Penal Code, Section 25(1-b)a, 26 and 35 of the Arms Act and Section 8 and 20(B) (ii) (c) of the NDPS Act.

3. As per prosecution case, petitioner was apprehended with 1kg of *charas* (cannabis), a loaded pistol with three live catridges and he is said to be a member of gang



of criminals.

4. Learned counsel for the petitioner submits that this is the second attempt of the petitioner to seek bail from this Court. Earlier his prayer for bail was rejected vide order dated 04.07.2022 passed in Cr. Misc. No. 11009 of 2022. Learned counsel further submits that there has been violation of mandatory provisions of Section 42 and Section 50 of the NDPS Act. The case was lodged against altogether 19 persons and petitioner is one of them. While rejecting the prayer for bail of this petitioner the learned trial court was directed to conclude the trial within a period of nine months, but even after expiry of the said period, none of the prosecution witnesses have been examined. The petitioner is in custody since 01.06.2021.

5. Learned APP opposes the prayer for bail submitting that no new grounds have been mentioned except delay in the trial. Learned APP further submits that petitioner was apprehended with commercial quantity of cannabis and he is having criminal antecedent of five cases of serious nature.

6. Perused the record.

7. Having regard to the submissions made on behalf



of the parties and considering the fact that recovery of commercial quantity was shown from the petitioner, I am not inclined to enlarge this petitioner on bail.

8. Hence, his prayer for bail is rejected.

9. A report was called for from the court of learned Additional Sessions Judge-12th about the present stage of trial and reasons for delay in conclusion of trial vide order dated 28.06.2023. In compliance thereof a report dated 07.07.2023 has been received and the learned trial court has submitted that due to non appearance of all the 8 accused persons, charges could not be framed and ultimately, the record of one of the co-accused Shivam Sahani was split up and, thereafter, charges have been framed against rest 7 accused persons. The matter has been coming up for recording of the prosecution evidence and summons have been issued against the witnesses. The learned trial court prayed for time of six months for conclusion of trial.

10. In view of submission of learned trial court further time of six months is granted for conclusion of trial. At the same time, Superintendent of Police, East Champaran, Motihari is directed to ensure the presence of witnesses on the dates fixed by the learned trial court for the said purpose and



in case all the witnesses are not produced, the Superintendent of Police, East Champaran, Motihari would appear before this Court physically and submit explanation for not producing the witnesses.

(Arun Kumar Jha, J)

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