

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38567 of 2023

Arising Out of PS. Case No.-326 Year-2020 Thana- BOCHAHAN District- Muzaffarpur

HEMANT KUMAR YADAV @ HEMANT KUMAR SON OF NAND
KISHORE RAI RESIDENT OF VILLAGE -KHALIKPUR PS -AHYAPUR
DISTRICT- MUZAFFARPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Radhe Shyam, Adv.

For the Opposite Party/s : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 4 01-09-2023 1. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.
2. Petitioner seeks bail, who is in custody since 04.12.2020 in connection with Bochaha P.S. Case No. 326/2020, F.I.R. dated 03.12.2020, for the offences punishable under Sections 20, 22 of the NDPS Act & Section 25(1-b)a, 26, 35 of the Arms Act.
3. According to F.I.R., one loaded country made pistol and one live cartridge along with 10 Kg. 200 grams of ganja and 1 kg of Charas have been recovered from the possession of the petitioner.
4. Learned counsel for the petitioner submits that earlier the bail petition of the petitioner was rejected vide order



dated 10.01.2022 in Cr. Misc. No. 19724 of 2021. Thereafter the petitioner again approached this Hon'ble Court in Cr. Misc. No. 39172/2022, which was also rejected vide order dated 03.08.2022. Thereafter the petitioner again moved this Hon'ble Court in Cr. Misc. No. 18648/2023, which was withdrawn with liberty to file a fresh applicxation before the learned court below. Thereafter the petitioner has approached the learned trial court then he has filed the present application for grant of regular bail in the present matter. Learned counsel for the petitioner submits that from perusal of the F.I.R. as well as seizure list, it appears that one loaded country made pistol and one live cartridge along with 10 Kg. 200 grams of ganja and 1 kg of Charas have been recovered from the car in question. He further submits that on the similar allegation, co-accused persons namely, Fulo Sahani has been granted bail vide order dated 30.06.2022 passed in Cr. Misc. No. 65201/2021, another co-accused namely Raja Kumar @ Raja has been granted bail vide order dated 12.05.2023 passed in Cr. Misc. No. 9635/2023 by co-ordinate Bench of this Court.

5. Vide order dated 05.07.2023 a report was called for from the learned Trial Court regarding the present stage of the trial. Report dated 20.07.2023 of the learned Trial Court reveals



that the charge has been framed against the petitioner on 17.10.2022 and out of six charge sheeted witnesses, the prosecution has not examined any witness as yet.

6. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in near future and the petitioner is in custody since 04.12.2020.

7. Learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for bail of the petitioner.

8. Considering the aforesaid facts that trial is not likely to be concluded in near future and other co-accused persons have been granted bail by co-ordinate Bench of this Court as well as period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 2nd Additional Sessions Judge-cum-Special Judge, Muzaffarpur, in connection with Bochaha P.S. Case No. 326/2020, 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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