

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.40932 of 2022

Arising Out of PS. Case No.-219 Year-2020 Thana- KHUSRUPUR District- Patna

ARVIND RAY Son of Sri Daroga Rai Resident of Village - Hardasbiga Bind
Toli, P.S. - Khusrupur, District - Patna

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

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

For the Opposite Party/s : Mr.Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 25-08-2023 Heard learned counsel for the petitioner and learned
APP for the State.

2. By filing this application, the petitioner has renewed his prayer for regular bail in connection with Kushurupur P.S. Case No. 219 of 2020 registered for the offence punishable under Sections 20(b) (ii) (c) and 22(c) of Narcotic Drugs and Psychotropic Substances (in short 'N.D.P.S.') Act, 1985.

3. Earlier the prayer for bail was rejected by this Court vide order dated 16.08.2021 passed in Cr. Misc. No. 8810 of 2021 on the ground that the quantity of Ganja is a commercial quantity and the bar of Section 37 of the N.D.P.S. Act is attracted in the facts of the case and learned counsel for the petitioner is unable to satisfy this Court with the twin conditions mentioned in Section 37.



4. At this stage, learned counsel for the petitioner submits that during the intervening period not only that co-accused Dharmendra Kumar has been granted regular bail by learned Co-ordinate Bench of this Court vide order dated 17.05.2023 in Cr. Misc. No. 26232 of 2023, the fact remains that the two seizure list witnesses were not cited as witnesses in the charge-sheet and further there is nothing to establish that the seized article is ganja and further that the weight of the ganja (without sack) would be more than 20 kg.

5. On these grounds, learned counsel submits that the petitioner deserves privilege of a regular bail during pendency of the trial.

6. On the other hand, learned APP for the State has opposed the prayer for regular bail of the petitioner.

7. It is submitted that as per report received from the learned trial court, out of six prosecution witnesses, four witnesses have already been examined, cross-examined and discharged and only two witnesses remained to be examined by the first week of August, 2023. The trial itself is likely to be concluded within six months.

8. Having regard to the aforementioned facts and submissions, this Court is of the view that at this stage that there



is no material before this Court to take a view that the seized article is not ganja, or that without sack it may be less than the commercial quantity or that the non-citing of two seizure list witnesses in the charge-sheet would ultimately result in acquittal of the petitioner in course of trial. So far as the another submission that the co-accused has been granted bail by learned Co-ordinate Bench of this Court is concerned, this Court finds that earlier on two occasions his prayer for regular bail had been rejected by the Court and considering the period of custody the said petitioner has been granted bail.

9. To this Court the period of custody alone, in the facts of the present case being three years would not appeal after noticing the condition under Section 37 of the N.D.P.S. Act and that the trial itself is to be concluded within six months, further the gravity of the offence and the quantum of punishment attached to the same are such that the petitioner has not even completed half of the maximum punishment which is prescribed under the provisions of the statute.

10. This application stands dismissed.

(Rajeev Ranjan Prasad, J)

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