

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48773 of 2022

Arising Out of PS. Case No.-84 Year-2021 Thana- KRITYANAND NAGAR District- Purnia

=====

AMRIT KUMAR @ SAJAN S/O LATE RAKESH SHARMA Resident of
village- Subhash Nagar, P.S.- K.Hat (Sahayak), District- Purnea.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Sr. Adv.,
For the State : Ms. Dr. Indihar Kumari, APP

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

10 16-08-2023 Heard Mr. Sanjay Singh, learned Sr. Counsel

appearing on behalf of the petitioner and Ms. Dr. Indihar
Kumari, learned counsel appearing on behalf of the State.

2. The petitioner is in custody since 03.03.2021 in
connection with Special Case No. 17 of 2021 (NDPS Act),
arising out of K. Nagar P.S. Case No. 84 of 2021, dated
02.03.2021, registered under Sections 8, 21, 22 (C) of the
N.D.P.S. Act.

3. Mr. Sanjay Singh, learned Sr. Counsel appearing on
behalf of the petitioner has produced an order passed by the
Hon'ble Supreme Court in case of **2023 LiveLaw (SC) 533,**
Rabi Prakash Vrs. The State of Odisha. Relying on the said
order learned counsel submits that petitioner being the owner of
the Car and he has remained in custody for more than two years



has clean antecedent. His case for grant of bail may be considered in light of the observation made by the Hon'ble Supreme Court in case of **Ravi Prakash (supra)**.

4. Learned counsel further submits that on the merits this Court had earlier rejected the prayer for grant of bail vide order dated 10.02.2022. The petitioner has renewed prayer for bail under changed circumstances. He further submits that almost all the concerned have been released on bail by Coordinate Bench of this Court. Learned counsel further submits that no recovery was made from the possession of the petitioner. The brown sugar was found in the Car registered in the name of the petitioner in which other co-passengers were present which create doubts that the petitioner was one who was involved in the trade of drugs.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner

6. I have perused the order passed by the Hon'ble Supreme Court in case of **Rabi Prakash (supra)** in which following observations have been made in paragraph-4 of the said order, which is reproduced as under:-

“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent-State has been duly heard. Thus, the 1st condition stands complied with.



So far as the 2nd condition re:formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37 (1) (b) (ii) of the NDPS Act.”

7. Having regard to the facts of the present case, it appears that the petitioner has clean antecedent and the drugs were found in his vehicle, in which other co-accused were present. Altogether, 400 Gm. Charas have been recovered from the Car. Petitioner has remained in custody since 03.03.2021.

8. Considering the fact that trial is likely not conclude in the near future and petitioner has remained in custody for more than two years, the above named petitioner is directed to be released on bail on furnishing personal bail bond of Rs.2,00,000/- (two lakh) with two sureties of the like amount each to the satisfaction of learned Special Judge, N.D.P.S. Act, Purnea in connection with Special Case No. 17 of 2021 (NDPS) Act, arising out of K. Nagar P.S. Case No. 84 of 2021, subject to the following conditions:-

I. One of the sureties must be mother of the petitioner



and the other must be local sureties.

II. The petitioner is also required to file his personal undertaking that he will not indulge in crime in future.

III. The Court below is directed to verify the criminal antecedent of the petitioner and if it is found that the petitioner is involved in some other cases as what has been stated in paragraph no. 3 of the bail application, this order will automatically loose its force.

(Purnendu Singh, J)

pravinkumar/-

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

