

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54188 of 2023

Arising Out of PS. Case No.-75 Year-2021 Thana- SHERGHATI District- Gaya

Somnath Mahto @ Somnath Singh S/O Ram Kishor Mahto R/O
Village/Mohalla- Masadh (MASARH), Ps- Udwant Nagar, Dist. Bhojpur,
Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union Of India Through Economic Offence Unit, Bihar, Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ravi Kant Kumar, Advocate
For the Opposite Party/s	:	Mr. Sunil Kumar Pandey, APP
For the EOU	:	Mr. Vishwanath Prasad Sinha, Sr. Advocate Mr. Vijay Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 06-10-2023 Heard Mr. Ravi Kant Kumar, learned counsel

appearing on behalf of the petitioner and Mr. Vishwanath Prasad

Sinha, learned senior counsel duly assisted by Mr. Vijay Anand,

learned counsel for the Economic Offence Unit and Mr. Sunil

Kumar Pandey, learned APP for the State.

2. This is an application for grant of bail to the
petitioner in connection with Special Case N.D.P.S. Case No.
12 of 2021 (arising out of Sherghati P.S. Case No. 75 of 2021)
registered for the offence punishable under Sections 8, 20(b)(ii)
(c), 25, 29 and 59(2) of the N.D.P.S. Act, 1985.

3. This is the second attempt made on behalf of the
petitioner for grant of bail, as earlier, the prayer of the petitioner



for grant of bail was negated by this Court in Cr. Misc. No. 64463 of 2021 vide order dated 17.10.2022, after taking into consideration the materials available on record as also the fact that the petitioner was one of the occupant of the Honda City car, who had taken the police personnel to the pickup van, from where a huge recovery of narcotics has been made. That apart, he was recognized by the driver and *khalasi* of the pickup van.

4. It is submitted on behalf of the petitioner that the entire recovery has been made from the pickup van, from which the petitioner has had no concern, nor he was in touch with the other persons, who were in the possession of the contraband. Further the petitioner has been incarcerated since 04.01.2021 and till date, out of nine prosecution witnesses only one has been examined. Further reliance has also been made on a judgment rendered by the Hon'ble Supreme Court in the case of ***Mohd. Muslim @ Hussain Vs. State (NCT of Delhi)***, (SLP (Cri) No. 915 of 2023), whereby, while granting bail to an accused of N.D.P.S., the Hon'ble Supreme Court has observed that "grant of bail on ground of undue delay in trial cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A of the Cr.P.C, which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil). It is next submitted that in similar application with respect to an identical



co-accused person, this Court has observed to renew his prayer for bail, after completion of three years in custody, if there would not be any substantive progress in the trial.

5. On the other hand, learned senior counsel appearing on behalf of the Economic Offence Unit vehemently opposed the bail application and submits that so far the merit of the present case is concerned, that has already been exhaustively dealt with earlier, resulting into rejection of the prayer of the petitioner and now there is no cogent and overwhelming circumstances warranting any reconsideration.

6. Considering the submissions made on behalf of the parties, this Court does not find any reason or occasion to reconsider the earlier order and, as such, the present application stands dismissed.

7. However, taking note of the period of incarceration, this Court expects that the learned trial Court shall take all the endeavours to conclude the trial, as early as possible, preferably within a period of six months, failing which the petitioner would be at liberty to renew his prayer for bail.

(Harish Kumar, J)

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