

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1424 of 2022

Arising Out of PS. Case No.-136 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

SANJAY KUMAR SHARMA Son of Suresh Sharma Resident of Sadhu
Chowk, Ward No. 3, Sareya, P.S- Gopalganj (Town) Dist- Gopalganj, Bihar
... Petitioner

Versus

1. The State of Bihar through Superintendent of Police, Dist- Gopalganj, Bihar Bihar
2. The Inspector General of Police, Bihar, Patna Bihar
3. The D.I.G., Saran Range, Saran Bihar Bihar
4. The Superintendent of Police, Dist- Gopalganj, Bihar Bihar
5. The Officer-in-Charge, Kuchaikote Police Station, Dist- Gopalganj, Bihar Bihar
6. The Investigating Office of Kuchaikote P.S Case No. 136 of 2022, Kuchaikote Police Station Dist- Gopalganj, Bihar ... Respondents

Appearance :

For the Petitioner : M/s Indrajeet Bhushan, Manish Kumar & Dr. Alok
Kumar Alok, Advs.
For the Respondents : Mr.Saroj Kumar Sharma, AC to AAG III

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 21-03-2023 Heard learned counsel for the petitioner and the State.

The present writ petition has been filed for quashing the order, dated 28.09.2022, passed by the District and Sessions Judge, Gopalganj, in connection with Trial No. 23 of 2022 arising out of Kuchaikote P.S. Case No. 136 of 2022 by which the application of the petitioner under Section 167(2) of the Criminal Procedure Code granting bail without considering the merit after lapse of 183 days of judicial custody of the petitioner has been rejected.

Counsel for the petitioner submits that total recovery of 51.30 grams smack is the subject matter of the present case in



which there are two accused persons and the said amount was recovered collectively from two accused persons, petitioner is one of them.

Counsel submits that Section 167(2) of the Criminal Procedure Code is equivalent to Section 36(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985, according to which, benefit of bail shall be granted to the accused after submission of charge sheet in 180 days. From the pleadings and the documents annexed, it transpires that after lapse of 180 days this petition was filed and office has reported that charge sheet has not been received, but, trial Court has recorded in his order that after lapse of 183 days charge sheet, along with the case diary, has been filed prior to hearing of case and on this ground the bail of the petitioner is rejected considering that it is a serious case.

Counsel for the State submits that from the record it transpires that 180 days has already been lapsed.

As such, in this facts and circumstances that within 180 days neither charge sheet has been filed nor any application filed on behalf of the prosecution for extension of time period of investigation and also considering the quantity recovered is less than the commercial quantity, I am inclined to grant bail to the petitioner in connection with Trial No. 23 of 2022 arising out of Kuchaikote P.S. Case No. 136 of 2022 on furnishing bail bond of Rs.30, (thirty thousand) with two sureties of the



like amount each to the satisfaction of the District and Sessions Judge, Gopalganj, and the order, dated 28.09.2022, is hereby set aside. The bail is granted on the following conditions :

(A) The petitioner shall support in the trial and shall appear physically before the lower Court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

(B) One of the bailors shall be close relative who shall file affidavit before the Court about his relationship with the petitioner and

(C) The petitioner shall file an affidavit at the time of furnishing bail bond that he shall not involve in such criminal activity during the continuance of present bail bond, violation of this condition shall be resulted into cancellation of his present bail bond.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J)

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