

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2247 of 2023

Arising Out of PS. Case No.-366 Year-2020 Thana- BIHPUR District- Bhagalpur

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Hridya Nand Upadhayay @ Hridya Nand Updhayay S/O Late Devan Upadhayay @ Devnandan Uppadhayay, Resident Of Village- Sonaree, P.S.- Deoria (Uttar Pradesh).

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Y. C. Verma, Sr. Advocate
Mr. Ram Pravesh Nath Tiwari, Advocate
For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

3 29-03-2023 The applicant/accused in Crime No. 366 of 2020 registered with Bihpur (Bhawanipur) Police Station, giving rise to N.D.P.S. Case No.22 of 2020, for the offences punishable under Sections 8, 20(b)(11)(c) and 22 of the Narcotic Drugs and Psychotropic Substances Act has renewed his request for grant of bail for the reason that though he is undergoing pre-trial detention from 16.09.2020, till date the trial has not proceeded inch ahead despite framing of the charge. His earlier application was rejected by this Court on 20.12.2021.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public Prosecutor appearing for the State.

The learned counsel for the applicant argued that the



applicant was not in conscious possession of the contraband seized from the Honda City Car. It is further argued that rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act are not applicable to the case in hand as the applicant has clean antecedents and there is nothing to point out that he is likely to commit any offence if he is released on bail. It is further argued that the contraband was not seized from the person of the applicant but from the Car in which he was travelling.

The learned Additional Public Prosecutor opposed the application by contending that earlier bail application of the applicant was rejected on merit.

I have considered the submissions so advanced and also perused the materials placed on record.

The learned counsel for the applicant in terms of pleading in the application has argued that despite framing of the charge on 07.01.2021 and despite even issuance of bailable warrant against witnesses on 10.03.2022 there is no progress in the trial. It is seen that the witnesses cited by the prosecution are mostly official witnesses. It is not understood as to why despite the witnesses being official witnesses are not attending the Court for the purpose of adducing evidence in



the trial.

The applicant is reportedly undergoing pre-trial detention from 16.09.2020 and the trial is protracted for no fault on the part of the applicant. The applicant was one amongst three persons travelling in the four wheeler vehicle and the Ganja weighing 19 Kgs was found concealed in that car.

In view of the fact that despite lapse of more than two years and seven months there is no progress in the trial as well as the fact that the applicant was one of the passengers in the car from which Ganja was recovered, his further pre-trial detention is not warranted and as such the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 366 of 2020 registered with Bihpur (Bhawanipur) Police Station, giving rise to N.D.P.S. Case No.22 of 2020, be released on bail on executing P.R. bond of Rs.50,000/- (Rupees Fifty Thousand) on furnishing two sureties of the like amount to the satisfaction of the trial court i.e., 10th Additional Sessions Judge, Bhagalpur, with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of inducement to the persons acquainted with the



facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II) The applicant/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.

(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

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