

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12863 of 2024

Arising Out of PS. Case No.-12 Year-2013 Thana- D.R.I District- Patna

Prem Kumar @ Prem Kumar Parbat @ Prem Kumar Parwat Son of Late Rajendra Parbat @ Late Rajendra Parwat Resident of Village and Post Chhap Mathiya, P.S.- Mirganj, District- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Union of India Through Narcotics Department (DRI) Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shadab Akhter, Advocate
For the Opposite Party/s	:	Mr. Nawal Kishore Prasad, APP
For the DRI	:	Mr. Anshuman Singh, Sr. SC, DRI

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

11 30-08-2024

1. Heard learned counsel for the parties.

2. It appears that in the order dated 23.8.2024, in place of order no.10, order no.11 has been inadvertently typed. The same stands corrected and the order dated 23.8.2024 shall be read as order no.10.

3. The petitioner has renewed his prayer for bail in connection with Special Case no.(N.D.P.S.)12(A) of 2013 arising out of DRIF No.718(II)03/SEIZ/MSRU/2013/445 registered under sections 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act (N.D.P.S. Act).

4. As per the prosecution case, on secret information having been received by the officers of the Directorate of Revenue Intelligence (DRI), Patna, the vehicle in question was



intercepted and on search, 16 bundles of ganja weighing a total of 164 kgs was recovered and the petitioner and others were apprehended.

5. Learned counsel for the petitioner submits that the earlier prayer for bail of the petitioner was rejected vide order dated 11.01.2023 (Annexure-1) passed in Cr. Misc. no.22528 of 2022 directing the learned trial Court to expedite the trial. Charges were framed against the petitioner on 7.2.2022 and only two witnesses have been examined on behalf of the prosecution which was on 13.4.2022 and 22.6.2022. In spite of more than two years having passed and the direction of this Court to expedite the trial in its order dated 11.1.2023, not a single witness has been produced on behalf of the prosecution. On merits, it is submitted that the petitioner is innocent and no incriminating article has been recovered from his possession. He has remained in custody since 13.3.2020 and undertakes to abide by the conditions which may be laid by this Court for his release on bail.

6. The application for bail is opposed by learned counsel appearing for the DRI. It is submitted by learned counsel that the petitioner along with one another was apprehended at the spot and 164 kgs of ganja was recovered



from the vehicle in question. The petitioner admitted his guilt and the petitioner is also the co-owner of the vehicle from which the seizure was made. It was further submitted that the learned trial Court by its order dated 18.5.2024 has allowed the petition of the prosecution for trial through virtual mode. The prosecution witnesses appeared in the case on 18.3.2024, 28.3.2024 and 4.4.2024, however, inspite of issuance of production warrant on 9.4.2024 and the same having been sent through the Inspector General (Prisons), Bihar on 18.6.2024, the petitioner who is at present lodged in the district jail at Siwan in connection with one another case has not been produced by the Superintendent, District Jail, Siwan.

7. Having heard learned counsel for the parties and having perused the material on record, it transpires that on search being conducted, 164 kgs of ganja was recovered from the vehicle in question, co-owned by this petitioner and the petitioner was taken into custody on the spot. The occurrence is said to have taken place on 20.3.2013. The petitioner managed to escape from custody and was finally taken into custody after having absconded for 7 years, on 13.3.2020. The recovery being of commercial quantity for which the punishment under section 20 of the NDPS Act which may be imposed being R.I. for a



term which shall not be less than 10 years and which may extend to 20 years besides fine of not less than Rs.1 lakh, in the facts and circumstances of the case, the Court is not inclined to enlarge the petitioner on bail and the application is rejected.

8. From the supplementary counter affidavit filed on behalf of the DRI, it transpires that by order dated 18.05.2024, the learned trial Court has allowed the petition of the prosecution for trial to proceed through virtual mode, however inspite of the prosecution witnesses appearing in the case on different dates and also inspite of production warrant being issued and having been sent through the Inspector General (Prisons), Bihar, the petitioner was not produced in the instant case by the Superintendent, District Jail, Siwan.

9. In view of the facts and circumstances of the case, both the Inspector General (Prisons), Bihar and the Superintendent, District Jail, Siwan are directed to ensure the appearance of the petitioner in the learned trial Court on the date of the trial either in physical mode or virtual mode, as has been permitted by the learned trial Court by its order dated 18.5.2024. The petitioner having remained in custody for over 4 years, the learned trial Court will expedite the trial and make an attempt to conclude the same within a period of six months failing which



the petitioner will be at liberty to renew his prayer for bail in the learned Court below.

10. Let a copy of this order be communicated to the learned trial Court as also the Inspector General (Prisons), Bihar and the Superintendent, District Jail, Siwan.

(Partha Sarthy, J)

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