

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18128 of 2024

Arising Out of PS. Case No.-2 Year-2021 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Aurangabad

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Mukesh Kumar Son Of Vinod Sah @ Vinod Prasad R/O-Birampur, P.S.-
Kolibar, Distt.-Bhojpur

... .. Petitioner/s

Versus

The Union Of India, Through N.C.B. Bihar, Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Ranjeet Kumar, Advocate Mr. Ayush Kumar, Advocate Mr. Mohit Srivastava, Advocate Mr. Rishabh Gupta, Advocate Mr. Kanishk Kaustubh, Advocate Mr. Shikhar Mani, Advocate
For the UoI (NCB)	:	Mr. Bindhyachal Rai, Sr. Panel Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 10-05-2024 Heard Mr. Yogesh Chandra Verma, learned Senior Advocate appearing on behalf of the petitioner and Mr. Bindhyachal Rai, learned senior panel counsel for the Union of India.

2. The petitioner seeks regular bail, who is in custody in connection with N.C.B. Case No. 02 of 2021 registered for the offences punishable under Sections 8(c), 20(b)(ii)(c), 25 & 29 of the Narcotic Drugs and Psychotropic Substances Act.

3. This is the third attempt made on behalf of the petitioner, renewing his prayer for bail. Earlier the prayer for bail of the petitioner was rejected by this Court vide order dated



06.09.2022 in Cr. Misc. No. 56651 of 2021; and further on 06.10.2023 in Cr. Misc. No. 46788 of 2023. While rejecting the prayer for bail of the petitioner, this Court has taken note of the fact that there are material evidence suggesting the involvement of the petitioner in the present crime. CDR linkage and money transactions have also been found. It has also come during the course of the investigation that the Honda City car was allegedly purchased in the name of the servant of the petitioner, however the same was being used by the petitioner and on the alleged date of occurrence the said Honda City car was escorting Tata 407, from where the huge amount of ganja was recovered.

4. Learned Senior Counsel appearing on behalf of the petitioner, pressing the prayer for bail has submitted that though earlier the prayer for bail of the petitioner was rejected on merit, however, it would be worth noticing that the petitioner has been incarcerated since 19.02.2021 and till date out of six chargesheet witnesses, only four witnesses have been examined and there is no likelihood of conclusion of the trial in near future. He also drew the attention of this Court to order of this Court dated 05.01.2024 in Cr. Misc. No. 75464 of 2023 as produced in Annexure 5 that in similar circumstances the person remained in custody for more than three years, has been allowed bail.



5. It is next submitted that so far the money transaction is concerned, it transpired that the account which is allegedly used for the money transaction was in the name of the brother of the petitioner and moreover the CDR linkage which reflects the conversation from certain phone numbers, the petitioner is not owner of any phone. Further reliance has been placed on a judgment of the Apex Court in the case of ***Mohd. Muslim @ Hussain vs. State (NCT of Delhi), 2023 SCC online SC 352.***

6. Learned Senior Counsel lastly contended that there is no chance of conclusion of the trial in the near future, as out of six witnesses, only four of them have been examined.

7. On the other hand, learned Additional Public Prosecutor for the State vehemently opposes the bail application and submits that there are ample materials suggesting the involvement of the petitioner in the crime in question. The alleged recovery is more than 300kg of ganja. He further contended that apart from the CDR linkage suggesting conversation of the petitioner with Gorakh Kumar, who had been driving the Tata 407, the petitioner had also send money to the suppliers of the ganja. The statement of the brother of the petitioner was also recorded under Section 67 of the NDPS Act,



wherein he has submitted that the account and the ATM card was being used by this petitioner.

8. Regard being had to the submissions made on behalf of the parties and considering the fact that there is material grounds available on record suggesting the involvement of the petitioner; moreover the trial is at the fag end and it is likely to be concluded in the near future, thus in such circumstances the reliance placed by the learned Senior Counsel on the judgment of the Apex Court as well this Court have no application. Earlier twice the prayer for bail of the petitioner has already been rejected, this Court is not acceded to the prayer of the petitioner. Accordingly, the prayer for bail of the petitioner stands rejected.

9. Considering the period of incarceration, it is expected that the learned Trial Court shall take all endeavors to conclude the trial, preferably within a period of six months.

(Harish Kumar, J)

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