

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25290 of 2024

Arising Out of PS. Case No.-1137 Year-2023 Thana- Excise P.S. District- West Champaran

1. Awadh Patel S/o Patiram Patel @ Patiram Raut R/o vill - Bairiya, P.S. - Inarwa, Distt. - West Champaran
2. Hasan Miyan S/o Habib Miyan R/o vill - Khamhiya, P.S. - Inarwa, Distt. - West Champaran, Presently R/o vill - Bahuari, Lakhaura, P.S. - Ramgadhwa, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr.Jitender Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 20-11-2024 Heard Mr. Sanjeev Kumar, learned counsel for the petitioner and Mr. Jitender Kumar Singh, learned APP for the State.

2. Pursuant to the last order dated 22.10.2024 in which this Court had shown its anguish on the non-availability of the FSL report, the Director of Regional Forensic Science Laboratory, Muzaffarpur (henceforth for short 'the R.F.S.L.') namely Dr. Rekha Kumari is present in the Court.

3. On the query as to why the reports are not being submitted in time before the Trial Court, thus seriously hampering the development of the particular case, the submission of the Director through the learned APP is/are that:-



(i) at present 696 cases are pending for report before 'R.F.S.L. ';

(ii) six Technical Experts/Assistant Directors are presently working there;

(iii) at best, 6 reports are prepared daily, one each by the Assistant Director;

(iv) taking into account the large number of cases waiting for report, request have been made to the Superior Authority for need to provide large number of helping hands;

(v) so far as the requisitions made by the Courts are concerned, she will henceforth ensure that immediate steps are taken and before the date fixed in such matters, the reports are submitted.



4. It is unfortunate that despite pendency of around 700 cases before 'the R.F.S.L., Muzaffarpur awaiting reports, only half a dozen officials are working there thus seriously hampering the submission of reports in time as also disposal of the criminal cases. It is high time that the concerned officials look into the matter and do the needful as the pendency shows that it as an emergency situation.

5. **The Additional Chief Secretary, Home Department, Bihar, Patna** as also **the Additional Director General of Police (Crime Investigation Department), Bihar** are requested to look into the matter personally as it is not the case of Regional Forensic Science Laboratory, Muzaffarpur alone rather even the Forensic Science Laboratory, Patna is also facing the same problem absence of officials and as a result, time without number, the Director of the State Forensic Laboratory, Patna has to appear in the Court merely because the report could not be made available in time.

6. Regarding the FIR, the allegation is that a motorcycle was intercepted and there is/are recovery of 12.5 kg. 'ganja' like substance.

7. It is the submission of learned counsel for the petitioner that as the report has come mentioning that it is



actually 'Ganja', his second submission is that it is below the commercial quantity of 20 kg as envisaged in the NDPS Act, 2002.

8. The last submission is that both the petitioners have remained in custody since 01.12.2023 (para-10 of the petition). Further, petitioner no.1 is having one criminal antecedent though the petitioner no.2 has no criminal record. There is no likelihood of the conclusion of trial.

9. Learned APP opposes the prayer submitting that now that it has been confirmed that the 'Ganja' has been recovered from the two petitioners, they do not deserve bail. He however, concede that it is below the commercial quantity.

10. Having gone through the facts of the case as also the submissions put forward by the parties, considering that both the petitioners have remained in custody since 01.12.2023, as undertaken the petitioners that they shall be diligently appearing in trial, the quantity of 'ganja' seized (12.5 kg) is below the commercial quantity, as recorded above, and trial is not likely to conclude at an earliest, in that background, this Court is inclined to extend them the privilege of bail with strict conditions.

11. Let the petitioners be released on bail on



furnishing bail bond of Rs. 20,000/- (Twenty thousand) each with two sureties of like amount each to the satisfaction of learned Exclusive Special Judge (N.D.P.S.), Bettiah, West Champaran, in connection with Bettiah Excise P.S. Case No. 1137 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member of the petitioners who shall provide official document to show his/her bona fide;

(ii) the petitioners shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their bail bond by the Trial Court itself;

(iii) the petitioners shall appear before the concerned police station every month till conclusion of the trial to mark their attendance;

(iv) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioners shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of their bail bonds.



12. The personal appearance of the Director Forensic Science Laboratory, Muzaffarpur, Dr. Rekha Kumari stands dispensed with further direction that she shall personally monitor all the cases in which requisitions have been made, the reports are sent in time. The Court though accepts the predicament shown by the Director that they are facing severe crunch of the officials to examine all the pending cases/submit report and expects the government to provide additional hand.

13. Let the report be sealed and handed over to the Director, Forensic Science Laboratory, Muzaffarpur so that the same is immediately sent to the concerned Trial Court.

14. Let a copy of the order be sent to the Additional Chief Secretary, Home, Bihar, Patna as also the ADG (CID), Bihar, Patna for their perusal and needful.

(Rajiv Roy, J)

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