

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1481 of 2019

Arising Out of PS. Case No.-10 Year-2016 Thana- D.R.I District- Muzaffarpur

HARIOM Son of Radheshyam Resident of Village - Nagla Devi, P.S.- Ochha,
Distt - Manpuri, Uttar Pradesh

... .. Appellant/s

Versus

UNION OF INDIA THROUGH DIRECTORATE OF REVENUE
INTELLIGENCE Government of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ravi Ranjan

For the Respondent/s : Mr.Sujit Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

10 03-05-2024

Re:- I.A. No. 04 of 2024

Heard learned counsel for the appellant and learned
counsel for the DRI on I.A. No. 04 of 2024 which has been filed
to suspend the sentence and stay the fine and release the
appellant on bail.

2. By the impugned judgment of conviction dated
20.02.2019 and order of sentence dated 28.02.2019 passed by
the learned 1st Additional Districts and Sessions Judge,
Muzaffarpur in connection with Trial No. 04 of 2018 arising
out of D.R.I. (NDPS) Case No. 10/2016 the appellant has been
convicted for the offences punishable under Section 20(b) (ii)
(c) of the N.D.P.S Act and accordingly he has been sentenced to
undergo RI for 10 years and a fine of Rs. 1,00,000/- for the said



offence and in default of payment of fine the appellant shall further undergo R.I. for one year.

3. As per prosecution case, there is recovery of 306 kg(Net Wt.) ganja from the truck in question which was being driven by the appellant.

4. Learned counsel for the appellant submits that earlier bail of the appellant was rejected on 01.07.2020 vide I.A. No. 1 of 2020 on merit by a co-ordinate bench of this Court. Thereafter, the appellant preferred I.A. No. 02 of 2021 for grant of bail but the same was also rejected vide order dated 20.04.2022 by a co-ordinate bench of this Court. Again appellant preferred I.A. No. 03 of 2023 for grant of bail but the same was also rejected vide order dated 27.04.2023 by this Court with observation that if the appeal is not taken up for hearing preferably within six months from the date of receipt of copy of said order, the appellant may renew his prayer for bail. It is further submitted by learned counsel that since the observation made by this Court one year has already been elapsed but the appeal has not been taken up for hearing. Learned counsel for the appellant referred the decision of Hon'ble Supreme Court in the case of *Mossa Koya Kp Vs State (Nct of Delhi)* reported in *2021 SCC OnLine SC 3110* and



submitted that present case is identically covered with the said case decided by the Hon'ble Supreme Court on 6 December, 2021 in which there was ten years punishment under N.D.P.S. Act and after completion of eight years in custody, appellant of the said case has been released on bail. In the present case, the appellant has already completed more than eight years in custody till now and after direction given by this Court vide order dated 27.04.2023, one year has already been elapsed but the appeal has not been taken up for hearing. He further submits that there is no chance that appeal is likely to be taken up in near future. He further submits that the appellant is in custody since 16.02.2016. He further submits that out of maximum punishment of 10 years, the appellant has already undergone more than 8 years in custody.

5. Learned counsel for the D.R.I vehemently opposes the prayer for bail of the appellant submitting that bail of the present appellant does not lie in the direction given in the Criminal Appeal (DB) No. 231 of 2021. He further submits that appellant is not entitled for bail as the present case relates to NDPS which is organized crime against society.

6. Considering the facts and circumstances of the case as well as this aspect of the matter that judgment passed in



Criminal Appeal (DB) No. 231 of 2021 is distinguishable in the light of the fact that there is direction in the present case that if the appeal is not likely to be concluded within six months, he may renew the prayer for bail, keeping in view that appeal is not likely to be taken up in near future and out of maximum punishment of ten years he has already completed more than eight years in custody, in the opinion of this Court it will be proper to enlarge the appellant on bail during the pendency of the appeal.

7. Accordingly, let the appellant above-named be enlarged on bail during the pendency of the appeal on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of the learned 1st Additional Districts and Sessions Judge, Muzaffarpur in connection with Trial No. 04 of 2018 arising out of D.R.I. (NDPS) Case No. 10/2016.

8. Sentence of the appellant is suspended and realization of fine is also remain stayed during the pendency of the appeal.

9. The appellant is directed to co-operate this Court in disposal of the appeal.

10. Accordingly, I.A. No. 04 of 2024 stands disposed



of.

11. Put up the appeal under appropriate heading.

(Alok Kumar Pandey, J)

vashudha/-

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