

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35866 of 2024

Arising Out of PS. Case No.-10 Year-2021 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Aurangabad

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Ravi Ranjan, Son of Sri Rameshwar Pathak, Resident of Village- Lalpur, P.S.-
Kudra and Dist- Kaimur

... .. Petitioner/s

Versus

The Union of India, Narcotics Control Bureau, through Intelligence Officer,
Narcotics Bureau, Patna Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Aditya Prakash Sahay, Advocate

For the Opposite Party/s : Mr. Rakesh Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 11-09-2024 Heard Mr. Aditya Prakash Sahay, learned Advocate

for the petitioner and Mr. Rakesh Kumar Sinha, learned

Advocate for the Union of India.

2. The petitioner seeks regular bail, who is in custody
in connection with NCB Crime Complaint Case No. 10 of 2021,
corresponding to NDPS Spl. Case No.11 of 2021 registered for
the offences punishable under Sections 8(c), 20(b)(ii)(c), 29 of
the Narcotic Drugs and Psychotropic Substances Act, 1985
(hereinafter referred to as ‘the NDPS Act’).

3. This is the third attempt made on behalf of the
petitioner for grant of bail, as earlier twice the prayer for bail of



the petitioner was turned down vide order dated 22.06.2022 passed in Cr. Misc. No. 47332 of 2021 and vide order dated 01.09.2023 passed in Cr. Misc. No. 34863 of 2023 after taking into consideration that a huge amount of *Ganja* weighing 112.20 Kgs was recovered from three accused persons, including the petitioner.

4. While rejecting the prayer for bail of the petitioner on the last occasion in Cr. Misc. No. 34863 of 2023, this Court has observed and expected that the learned trial court must take all the endeavours to conclude the trial as far as possible preferably within a period of six months with liberty to the petitioner to renew his prayer for bail after six months.

5. Learned Advocate for the petitioner contended that though the earlier prayer for bail has been negated on merit and, as such, he is not advancing any submission with regard to the merit of the case, but it cannot be ignored that from the seizure list, it appears that recovery has been made from hotel New Gurudev Basera, Jogia but with a view to implicate the petitioner, recovery has been shown from his possession. The petitioner is a man of fair antecedent and is incarcerated since 02.04.2021, thus more than 3 years and 5 months have elapsed. It is also the fact that till date, out of six charge-sheet witnesses,



three witnesses have been examined and one witness has been partially examined is the contention of the learned Advocate for the petitioner.

6. Learned Advocate for the petitioner further submitted that from the materials available on record, the entire allegation against the petitioner is based upon his voluntary statement recorded under Section 67 of the NDPS Act, which is not admissible in the eyes of law in view of the mandate of the Apex Court in **Tofan Singh v. State of Tamil Nadu [(2021) 4 SCC 1]**. In course of arguments, he drew the attention of this Court on a judgment rendered by the Hon'ble Apex Court in **Mohd Muslim @ Hussain v. State (NCT of Delhi) 2023 SCC OnLine SC 352**, wherein the Hon'ble Apex Court in its paragraphs no. 22 and 23 has held as follows:

“22. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling....

23. The danger of unjust imprisonment, is that inmates are at risk of “prisonisation” a term described by the Kerala High Court in A Convict



Prisoner v. State, 1993 SCC OnLine Ker 127 “a radical transformation” whereby the prisoner:

“loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turn out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes.”

7. He next submitted that even in the case of **Hussainara Khatoon v. Home Secy., State of Bihar (1980) 1 SCC 81**, the Hon’ble Apex Court has held that Article 21 included within its ambit the right to speedy trial and the procedure under which a person is deprived of personal liberty should be “reasonable, fair and just”.

8. Learned Advocate for the petitioner further submitted that recently the Hon’ble Apex Court in **Satendra Kumar Antil v. Central Bureau of Investigation [(2022) 10 SCC 51]** has observed as follows:

“64. Now we shall come to category (C). We do not wish to deal with individual enactments as each special Act has got an objective behind it, followed by the rigor imposed. The general principle governing delay would apply to these



categories also. To make it clear, the provision contained in Section 436-A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigour as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. We do feel that more the rigour, the quicker the adjudication ought to be. After all, in these types of cases number of witnesses would be very less and there may not be any justification for prolonging the trial. Perhaps there is a need to comply with the directions of this Court to expedite the process and also a stricter compliance of Section 309 of the Code.”

9. He further placed reliance upon the order of the learned co-ordinate Bench of this Court in **Raj Kumar Thakur @ Raj Kumar v. The State of Bihar [Cr. Misc. No. 9036 of 2023]** and submitted that while granting bail, the learned single Judge has taken note of the observation made by the Hon’ble Supreme Court that the right of speedy trial of an accused is his fundamental right under Article 21 of the Constitution of India. Although Section 37 of the NDPS Act stipulates certain conditions regarding grant of bail in case of recovery of commercial quantity of contraband but the said condition in itself get diluted, when the fundamental right of the accused of



speedy trial is per se violated. Certain instances have also been shown where the accused persons have been allowed bail after completion of custody of more than 2-3 years.

10. On the other hand, learned Advocate for Union of India opposes the prayer for bail and submits that apart from the voluntary statement made on behalf of the petitioner under Section 67 of the NDPS Act accepting the involvement in trading of contraband substance during the course of investigation materials have come, which suggests active involvement and complicity of the petitioner. The quantity, as recovered in the present case, is admittedly commercial quantity and, as such, rigors provided under Section 37 of the NDPS Act requires the compliance of twin principle, which cannot be ignored.

11. It is to be noted that person/accused of an offence under the NDPS Act, if found in possession of commercial quantity or more should not be released on bail, unless the mandatory conditions provided under Section 37 of the NDPS Act, namely, there are reasonable ground for believing that the accused is not guilty of such offence; and (ii) he is not likely to commit any offences while on bail, are satisfied.

12. Needless to observe that reasonable ground means



something more than, *prima facie*, ground to believe that accused is not guilty of such offence.

13. After careful examination of the materials available on record and after taking note of the submissions made on behalf of the learned counsel representing the NCB, it appears to the Court that the entire prosecution case revolves around voluntary statement of the petitioner recorded under Section 67 of the NDPS Act. There is no material showing any connection of the petitioner with the accused person, who were allegedly carrying contraband or there is any call detailed report or money transaction from his account to other accused.

14. This Court is also conscious of the fact that the prayer for bail of the petitioner was rejected on merit vide order dated 22.06.2022 and 01.09.2023, however, this fact cannot be ignored that the petitioner has been incarcerated since 04.04.2021 and till date out of six witnesses only three witnesses have been examined and one witness has been partially examined. The liberty of accused, who is facing a prolong trial deserves attention of the Court. The reliance of the petitioner on the judgment rendered in the case of **Mohd Muslim @ Hussain (supra)** finds substance.

15. Regard being had to the submissions made on



behalf of the parties and considering the fact that there is no likelihood of the conclusion of the trial in near future and till date out of six charge-sheet witnesses only three witnesses have been examined; moreover the voluntary statement recorded under Section 67 of the NDPS Act, is held to be not admissible by the Hon'ble Apex Court in **Tofan Singh (supra)**, coupled with the fair antecedent of the petitioner, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.50,000/- (Fifty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District & Sessions Judge-cum-Special Judge (NDPS), Aurangabad in connection with NCB Crime Complaint Case No. 10 of 2021, corresponding to NDPS Spl. Case No.11 of 2021, subject to the condition that one of the bailors will be the close relatives of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates



without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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