

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34901 of 2024

Arising Out of PS. Case No.-56 Year-2022 Thana- YADOPUR District- Gopalganj

Manoj Rai @ Manoj Ray Son of Vilat Rai, R/o Village- Chandpura, Ward No. 5, Raghapur, P.S.- Raghapur, Dist- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Kumar Harshvardhan, Advocate
For the Opposite Party : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 28-08-2024 Heard Mr. Kumar Harshvardhan, the learned
counsel for the petitioner and Mr. Binod Kumar, the learned
Additional Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since
06.04.2024, in connection with Jadopur P.S. Case No. 56 of
2022, FIR dated 05.04.2022, registered for the offences
punishable under Sections 8, 20(b)(ii)(c) of the NDPS Act.

3. Earlier the petitioner has moved before this
Hon'ble Court in Cr. Misc. No. 56243 of 2022, which was
rejected vide order dated 23.06.2023.

4. According to the prosecution case, during the
course of night patrolling, the informant received confidential
information that some persons were unloading *ganja* towards
North side of road leading to Bhagwanpur, thereafter, the



informant along with police personnel reached at the alleged place and upon seeing the police, people started fleeing and upon chase, one person, namely, Manoj Rai was apprehended and acting upon his disclosure, total 370 kilograms of *ganja* from five different vehicles was recovered.

5. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that although there is recovery of 370 kilograms of *ganja* from five different vehicles, however, it appears from the FIR and seizure list that nothing has been recovered from the conscious possession of the petitioner. He further submits that petitioner is HIV+ since last thirteen years and he is entitled for treatment as per guidelines, in addition to that, the wife of the petitioner is also HIV+ and doctors have advised her for transfer to higher medical facility for better treatment.

6. Vide order dated 12.07.2024, a direction had been issued to the Jail Superintendent, Gopalganj jail to submit a medical report with respect to the petitioner, and in compliance of the order dated 12.07.2024, a report with regard to the stage of the trial as well as medical report with respect to the petitioner has been sent by the Jail Superintendent, Gopalganj



Jail, and the said medical report dated 26.07.2024 is quoted
herein below:

“To

*The Court of ADJ-I, Gopalganj
Through- Jail Superintendent, Mandal Kara,
Gopalganj (Chanawe).*

Subject: Medical Report of UTP Manoj Rai.

Sir,

*With due respect I have to say that UTP
Manoj Rai, 52 years / Male S/o Bilat Rai having
(ICTC PID No. & Date PMCH / 1188)
(23.03.2012), HIV Care (Pre ART Registration No.
& Date - Pre ART- 217, ART Registration Number
and Date- BR HAZ - 000148, Date of ART
initiation 28.04.2012.) He is taking Anti Retro-viral
Treatment.*

o/e

Patient is conscious, co-operative and oriented.

<i>BP = 140/90 mmHG</i>	<i>Chest = BIL AE +</i>
<i>P = 98 bpm</i>	<i>CVS = S, S2 +</i>
<i>T = 98 °F</i>	<i>CNS = Conscious & oriented, No FND</i>
<i>SPo2 = 96% at R/A</i>	<i>P/A = Soft & NT</i>
<i>RR = 18 C/M</i>	<i>B/S = Present</i>

He is haemodynamically stable.

He has no fresh complaints.

His viral load report is attached.”



“To
The Court of 1st Additional Sessions Judge,
Gopalganj.
Through- Jail Superintendent, Mandal Kara,
Gopalganj.

Sub- Health Report of Manoj Rai.

Sir,
With due respect I have to say that UTP Manoj Rai, age-52, S/o- Bilat Rai has a previous history of HIV reactive since 2012 (taken Anti Retro-Viral therapy regularly), He is also suffering from T2DM. The patient had anxiety, restlessness and insomnia a few days ago. Because of this, we referred the patient to Sadar Hospital. Viral load was done on the advice of Sadar’s Doctor (copy attached). Presenting complain is back pain, general weakness.

Treatment Given:

1. T. Calcium & vit D ₃	Symptoms got subsided.
2. T. DFA	
3. T. B. Complex	

Now, no any fresh complain has been made by the prisoner.”

Vitals o/e
BP = 148 / 90 mmHG Patient is conscious, oriented.
PR = 78 Chest = clear; AE + mf
RBS = 140 mg/dl CNS = S1 S2 + nt
P/A = NT, BS +

7. The learned Additional Public Prosecutor for the State on the other hand has vehemently opposed the prayer for



bail of the petitioner and submits that the petitioner is named in the FIR and from bare the perusal of the medical report of the petitioner, it appears that the petitioner is now in better condition and no any fresh complaint has been made by the prisoner (petitioner). In addition to that, altogether 370 kilograms of contraband has been recovered from different vehicles and the petitioner was apprehended at the spot and FSL report also confirms that the recovered contraband was *ganja*, which is more than the commercial quantity, hence, there is embargo under Section 37 of the NDPS Act. Apart from that, petitioner carries five more cases other than the present and out of five cases, one case is related to NDPS matter.

8. The grant of bail in NDPS cases where the recovery of commercial quantity of narcotics is alleged, is circumscribed under NDPS Act, Section 37, which says that:

“before the grant of bail, the Court must have reason to believe that petitioner has not committed the offence and in the event of release, he would not commit similar offence in future.”

9. The issue was considered by the Hon’ble Supreme Court in the case of ***State of Kerala & Ors. Vs. Rajesh & Ors.***, reported in ***2020(12) SCC 122*** as well as in the case of ***Narcotic Control Bureau Vs. Mohit Aggrawal*** in Cr. Appeal Nos. 1001-1002 of 2022, arising out of ***Special Leave to Appeal (CRL.)***



No. 6128-29 of 2021.

10. Considering the aforesaid facts and circumstances, I am **not** inclined to enlarge the petitioner on bail in connection with Jadopur P.S. Case No. 56 of 2022, pending in the Court of learned Additional Sessions Judge-I, Gaya, Bihar.

11. Accordingly, the prayer for grant of regular bail to the petitioner stands dismissed.

(Rajesh Kumar Verma, J)

Shahnawaz/-

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