

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48254 of 2023

Arising Out of PS. Case No.-349 Year-2018 Thana- BARACHATTI District- Gaya

Harilal Balai S/O Ramlal Balai @ Rama Balai @ Rama R/O Village-Geta
Parouli, P.S._Bigodnagar, Dist.-Bhilwara (Rajasthan)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amit Kumar Sinha, Adv. Mr. Sudhir Kumar Sinha, Adv.
For the Opposite Party/s	:	Mr.Prem Kumar Jha, APP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 28-02-2024 Heard learned counsel for the petitioner and

learned APP for the State.

2. This is the fourth attempt of the petitioner for grant of bail. Earlier the petitioner has moved before this Court for grant of regular bail which was rejected by a Co-ordinate Bench of this Court vide orders dated 03.12.2018, 26.02.2020 and 28.07.2021 passed in Cr. Misc. Nos. 65999 of 2018, 49391 of 2019 and 16272 of 2021 respectively.

3. The petitioner seeks bail in connection with N.D.P.S. Case No. 06/2018 arising out of Barachatti P.S. Case No. 349 of 2018, instituted for the offences punishable under Sections 18, 20 and 22 of the N.D.P.S. Act.



4. The prosecution case, in short, is that 40 Kg of *Doda* and 400 Grams of opium has been recovered from a truck and the petitioner has been apprehended as *Khalasi* of the truck.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. Charge-sheet has already been filed in the present case. The petitioner is languishing in judicial custody since 27.05.2018 and has got no criminal antecedent as has been stated in paragraph no. 3 of the present bail application. Placing reliance on a case of the Hon'ble Supreme Court since reported in **(1994) 6 SCC 731 (S.C. Legal Aid Committee Representing Undertrial Prisoners vs. Union of India)**, learned counsel for the petitioner has submitted that the petitioner has been in custody for more than five years and as such he may be granted the privilege of bail.

6. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioner.

7. Considering the aforesaid facts and



circumstances of the case and taking into account the period of custody undergone by the petitioner in terms of the judgment of Hon'ble Apex Court, this Court is inclined to grant bail to the petitioner.

8. Let the petitioner be released on bail on furnishing bail bonds of Rs. 1,00,000/- (Rupees one lac) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with N.D.P.S. Case No. 06 of 2018 arising out of Barachatti P.S. case No. 349 of 2018, subject to the following conditions:

(I) The petitioner shall deposit his passport with the learned Judge of the Special Court concerned and if he does not hold a passport he shall file an affidavit to that effect in the form that may be prescribed by the learned Special Judge. In the latter case, the learned Special Judge will, if he has reason to doubt the accuracy of the statement, write to the Passport Officer concerned to verify the statement and the Passport Officer shall verify his record and send a reply within three weeks. If he fails to reply within the said time, the learned Special Judge will be entitled to



act on the statement of the petitioner.

(II) The petitioner shall, on being released on bail, present himself at the police station which has prosecuted him at least once in a week, unless leave of absence is obtained in advance from the Special Judge concerned.

(III) The petitioner shall not leave the area in relation to which the Special Court is constituted except with the permission of the learned Special Judge.

(IV) The Special Judge will be at liberty to cancel bail if any of the above conditions are violated or a case for cancellation of bail is otherwise made out.

(Rudra Prakash Mishra, J)

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