

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41550 of 2024

Arising Out of PS. Case No.-385 Year-2021 Thana- BODHGAYA District- Gaya

Rahul Kumar @ Rocky S/O Narayan Saw R/O VILLAGE - BHAGALPUR,
P.S. -BODHGAYA, DIST- GAYA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Mishra, Adv
For the Opposite Party/s : Mr. Sunil Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 04-10-2024 Heard the parties.

2. The petitioner is in judicial custody in connection with Bodhgaya P.S. Case No. 385 of 2021 registered under Sections 8, 20 and 2022 of the NDPS Act.

3. As per the FIR, the allegation is that the police intercepted the motorcycle and upon search, it is alleged that beside other items, 15.8 K.Gs. of 'Ganja' was recovered/seized from him. The police personnel, thereafter, along with the petitioner raided his house and it is further alleged that another lot of 15 K.Gs. of 'Ganja' was recovered/seized from his house.

4. Earlier, the bail applications of the petitioner was twice rejected *vide* order dated 13.07.2022 in Cr. Misc. No. 16294 of 2022 and in Cr. Misc. No. 13496 of 2023 *vide* order dated 12.04.2023 and this is the third attempt.



5. Learned counsel for the petitioner submits that he is in custody since 04.10.2021 (para-18 of the petition) and the trial has still not been concluded.

6. In this case, a report was called for which has come from the court of learned Additional Sessions Judge 1st, Gaya *vide* letter no. 610 dated 16.08.2024, according to which, out of eight witnesses, only one witness has been examined and rest seven are yet to be examined.

7. In the last order dated 12.04.2023, the trial court was requested to conclude the trial within a period of one year taking into account the information given in the letter no. 208 dated 06.03.2023 that one witness has been examined.

8. It is unfortunate that the trial is exactly at the same stage and the same report has been submitted once again. The District & Sessions Judge, Gaya is requested to look into the matter and do the needful.

9. Learned counsel for the petitioner submits that so far as recovery part is concerned, only 15 Kgs Ganja has been recovered from his conscious possession and rest 15 Kgs is from the house which is a joint property and, as such, his recovery/seizure is restricted to 15 Kgs which comes below the commercial quantity. Further, he has remained in custody for



almost 03 years and he will be diligently appearing in the trial without fail.

10. Learned APP opposes the prayer submitting that though two separate recoveries are there, one from his conscious possession and the other from the house, the same will be construed to have been recovered from the possession of the petitioner.

11. Considering the aforesaid submissions put forward by the parties as also the fact that the petitioner has remained in custody for almost 03 years, he has got no criminal antecedent relating to the same offence, as undertaken, he will be diligently appearing in the trial, the trial has not moved from where the last bail application was rejected, this Court is inclined to extend him the privilege of bail.

12. Let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 50,000/- (Fifty thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge 1st, Gaya in connection with aforesaid P.S. Case, subject to the following conditions:

(i) Both of the bailors should be the family members/relatives of the petitioner who shall provide official documents to show their bona fide;



(ii) the petitioner 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 his bail bond by the Trial Court itself;

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

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

(Rajiv Roy, J)

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