

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76476 of 2023

Arising Out of PS. Case No.-10 Year-2020 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Patna

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Bashisht Kumr @ Bashishtha Kumar @ Bashisth Kumar S/o Durga Rai, R/o
Village- Raghapur, P.S. - Bakhtiyarpur, District- Patna.

... .. Petitioner/s

Versus

Union of India through Narcotics Control Bureau

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 51601 of 2023

Arising Out of PS. Case No.-10 Year-2020 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Patna

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Surendra Kumar Ray @ Surendra Kumar S/O Mr. Lakhan Deb Ray @
Lakhan Dev Ray R/O Village And P.O.- Chandpura, Ps. Raghapur, Dist.
Vaishali

... .. Petitioner/s

Versus

The Union Of India Through Narcotics Control Bureau, Govt. Of India India

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 76476 of 2023)

For the Petitioner/s	:	Mr. Madhukar Anand, Advocate
For the Opposite Party/s :		Mr. Dr. K.N Singh, A.S.G.
For N.C.B.	:	Ms. Punam Kumari Singh, Advocate
		Mr. Shashank Shekhar, Advocate

(In CRIMINAL MISCELLANEOUS No. 51601 of 2023)

For the Petitioner/s	:	Mr. Abhimanyu Deo, Advocate
For the Opposite Party/s :		Mrs. Renuka Sharma, Advocate
		Mr. Sameer Sawarn, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 12-01-2024 Since both the applications arise out of the same P.S.

case, hence, with consent of the parties, they are taken up

together and disposed of by a common order.

2. Heard Mr. Madhukar Anand and Mr. Abhimanyu



Deo, learned counsel appearing on behalf of the petitioner and Ms. Punam Kumari Singh and Mrs. Renuka Sharma, learned C.G.C. for the Union of India.

3. Both the applications have been filed for grant of bail in connection with Special (NDPS) case No. 141 of 2020) arising out of Crime No. NCB/PZU/V/10/2020, registered for the offenses under section 8(c) read with 20(B) (ii) ©, 29 and 35 of the NDPS Act.

4. This is the second attempt made on behalf of the petitioners for grant of regular bail as earlier the prayer of the petitioners were negated by this Court in Criminal Miscellaneous No. 62808 of 2021 and No.12081 of 2022, both vide order dated 10.10.2022, taking into consideration the materials available on record, apart from the statement of the petitioners, recorded under section 67 of the NDPS Act, which had led the NCB team to arrive at and search and seized the truck in question which resulted into recovery of huge quantity of contraband substance, like ganja. Further, materials collected during course of investigation also disclosed that the petitioners and the co-accused persons were in touch with each other actively and certain money transaction had taken place, which also shown the complicity of the petitioners.



5. It is submitted on behalf of the petitioners that though earlier the prayer for bail of the petitioners was negatived by this Court but the fact is the petitioners have been incarcerated since 18.09.2020 and 16.07.2021 respectively and till date out of twelve charge-sheet witnesses only one has been examined and there is no likelihood of conclusion of the trial in near future. That apart the entire prosecution case is based upon the voluntary statement of the petitioners recorded under section 67 of the NDPS Act, which is not admissible, in view of the mandate of the Supreme Court in the case of ***“Toofan Singh vs. State of Tamil Nadu, (2021) 4 SCC 1”***. He next submitted that so far the allegation of transaction of money of an amount of Rs. 50,000/- in the account of co-accused Raj Ghosh is concerned, during the course of investigation, no material has come to substantiate the allegation. Learned counsel further submits that it is also the fact that the petitioners have not been found in touch with any of the co-accused persons from whose possession the recovery has been made. Further reliance has also been made on various judgment of the Apex Court including the cases of ***Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), 2023 SCC OnLine SC 352***, as well as ***Satender Kumar Antil vs. C.B.I., [2022 (3) BBCJ]*** .



6. On the other hand learned counsel for the union of India, while opposing the bail application has submitted that since the prayer for bail of the petitioners has already been rejected on merit, taking into consideration incriminating materials against them, there is no cogent reason and overwhelming change circumstances warranting reconsideration of the prayer of the petitioners. She further submits that the submissions which has led by the learned counsel for the petitioners are subject matter of trial and the same is going on and are likely to be concluded in near future.

7. Regard being had to the submissions made on behalf of the parties and considering the fact that the prayer for bail of the petitioners have already been rejected earlier after taking into consideration the materials suggesting complicity of the petitioners as the consignee of huge quantity of Ganja and one of the petitioner (Cr. Misc. No. 76476 of 2023) bears criminal antecedent of identical nature, as also the narrow parameters of bail provided under Section 37 of the NDPS Act, and the ongoing trial, this Court is not persuaded to enlarge the petitioners on bail. Thus both the applications stand rejected. However, taking note of the period of incarceration of the petitioners since 18.09.2020 and 16.07.2021 respectively, this



Court expects that the learned Trial Court would take all necessary efforts to conclude the trial, as early as possible, preferably within a period of six months from the date of receipt/ production of a copy of this order.

8. Needless to observe that if the trial is not concluded within the stipulated period, the petitioners shall be at liberty to renew their prayer for bail.

(Harish Kumar, J)

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