

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55283 of 2024

Arising Out of PS. Case No.-256 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Gaya

Binod Mishra @ Binod Kumar Mishra S/O Late Harsh Narayan Mishra, R/O
Village- Bhatewara, P.S- Vindhyachal, Distt- Mirzapur, Uttar Pradesh.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Avanish Singh, Advocate
For the Opposite Party : Mr. Lalan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 29-11-2024 Heard Mr. Avanish Singh, the learned counsel for
the petitioner and Mr. Lalan Kumar, the learned Additional
Public Prosecutor for the State.

2. Petitioner seeks regular bail who is in custody since
08.05.2022, in connection with Samekit Janch Chowki Dobhi,
Gaya Excise Case No. 256 of 2022, FIR dated 08.05.2022,
registered for the offences punishable under Sections 8/20(b)
and 2(c) of the N.D.P.S. Act.

3. Earlier the petitioner has moved before this
Hon'ble Court in Cr. Misc. No. 5385 of 2023, which was
rejected vide order dated 27.06.2023.

4. According to the prosecution case, during routine
vehicle checking at Samekit Janch Chowki Dobhi, Gaya, a
DCM truck bearing Reg. No. GJ23AT2911 was stopped and



upon search 200 kilograms of ganja 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, altogether 200 kilograms of *ganja* was recovered from the truck in question, but petitioner is owner of the truck bearing Reg. No. UP66T2599, Chassis No. MC252HRCODA076960 and Engine No. E483CDCM595718. He further submits that from bare perusal of the FIR, it appears that the truck mentioned in the FIR, carrying 200 kilograms of ganja bearing Reg. No. GJ23AT-2911, Chassis No. MC2FBHRCOEL181021 and Engine No. E413CDEL098012 does not belong to the petitioner and petitioner has falsely been implicated in the present case merely on the basis that petitioner is the owner of the vehicle in question.

6. Vide order dated 02.08.2024, a report was called for with regard to the stage of the trial and report dated 08.08.2024 of the learned trial Court reveals that charge has been framed against the petitioner on 19.04.2023. The report further reveals that the prosecution has not produced any prosecution witness at yet.

7. Learned counsel for the petitioner submits that in



view of the report of the learned trial Court, there is no chance of early conclusion of the trial in near future and the petitioner is in custody since 08.05.2022, more than two and a half year.

8. 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 bail prayer of the petitioner was earlier rejected *vide* order dated 27.06.2023 and FSL report has also come which suggests that the recovered contraband is *ganja* and the quantity of recovered contraband is more than the commercial quantity, hence, there is embargo under Section 37 of the NDPS Act.

9. Considering the aforesaid facts and circumstances, the report of the learned trial Court as well as petitioner's period of custody, let the petitioner, above-named, be released on bail on furnishing bail bond of Rs. 50,000/- (Rupees fifty Thousand only) with two sureties of the like amount each to the satisfaction of the learned Session Judge-cum-Special Judge (NDPS Act), Gaya, in connection with **Samekit Janch Chowki Dobhi, Gaya Excise Case No. 256 of 2022**, subject to the following conditions:

(i). Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the



learned trial Court and shall remain physically present as directed by the learned trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the learned trial Court.

(ii). If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii). And further condition that the learned trial Court 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 learned trial Court shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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