

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63917 of 2024

Arising Out of PS. Case No.-337 Year-2022 Thana- CHAKAI District- Jamui

Jai Prakash Yadav @ Karu Yadav Son of Radhe Yadav Resident of Vill-
Chayn, P.S.- Simultalla, District- Jamui.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Pramod Kumar Pandey, APP

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

ORAL ORDER

4 18-11-2024 Heard learned counsel for the petitioner, learned
APP for the State and perused the case diary.

2. The petitioner seeks bail in connection with Chakai
P.S. Case No. 337 of 2022, instituted for the offences punishable
under Sections 385, 506 of the Indian Penal Code, Sections 16,
17 and 18 of the U.A.P.A. Act.

3. The prosecution case, in short, is that, the informant
submitted a written report to the police with regard to a bridge
construction was going on in his panchayat and the labourer
working there was given a letter by some unknown persons to
hand him over which was written by the maoists on their letter
pad. It was mentioned in the letter that he should give four
motorcycles and ten lakh rupees to the maoists as levy, and in



case of non-compliance, he and his family member would have to face serious consequences.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. No incriminating material has been recovered from the conscious possession of the petitioner. Learned counsel for the petitioner also submits that the petitioner is not named in the FIR. Name of the petitioner has transpired during course of investigation and he was arrested on the basis of criminal antecedents. It is further submitted that the petitioner has got no concern with the alleged letter received by the informant. No T.I. parade has been conducted in this case. It is lastly submitted by the learned counsel for the petitioner that no case is made out against the petitioner under Section 16, 17 and 18 of the U.A.P.A. Act. The petitioner is in custody since 30.10.2023 and has got fifteen criminal antecedents in which he is on bail in all cases.

5. Learned APP for the State has vehemently opposed the prayer for grant of bail to the petitioner and further submitted that the petitioner has fifteen criminal antecedents. On perusal of case diary it appears that confessional statement of the petitioner is at para-20 of the case diary. Learned counsel



further referring to Section 43-D (5) and 43-D(6) of the Unlawful Activities Prevention Act, 1967 submitted that bail must be rejected if there are reasonable grounds for believing that the accusation against person alleged of offences punishable under Chapter IV and VI of the UAP Act is prima facie true. Hence, the petitioner does not deserve the privilege of bail.

6. For better appreciation of the case, Section 43-D of UAP Act, is quoted hereinbelow:-

“ 43-D. Modified application of certain provisions of the Code.-

(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and “cognizable case” as defined in that clause shall be construed accordingly.

(2) (4)

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release: Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true.

(6) The restrictions on granting of bail specified in sub-section (5) is in addition to the restrictions under the Code or any other



law for the time being in force on granting of bail.

(7) Notwithstanding anything contained in sub-sections (5) and (6), no bail shall be granted to a person accused of an offence punishable under this Act, if he is not an Indian citizen and has entered the country unauthorisedly or illegally except in very exceptional circumstances and for reasons to be recorded in writing.”

7. Section 43-D(5) of the UAP Act modifies the application of the general bail provisions in respect of offences punishable under Chapter IV and VI of the UAP Act. From bare perusal of Section 43-D(5) it is evident that the said Section puts a complete embargo on the powers of the Court to release an accused on bail. The Hon'ble Apex Court in ***Gurwinder Singh vs. State of Punjab and Anr.[(2024) 5 SCC 403]*** has observed that the often quoted phrase “*bail is the rule, jail is the exception*” is not applicable in the cases under UAP Act. It is further observed by the Hon'ble Apex Court that if there are reasonable grounds for believing that the accusation against such person as regards commission of offence(s) under Chapter IV and/or Chapter VI of the UAP Act, is prima facie true, such person shall not be released on bail. After perusing the material available in the case dairy, it appears that the accusation against the petitioner is found, prima facie, true.



8. Having considered the rival submission of the parties and the material placed on record as also taking into account the embargo put under Section 43-D(5) of the UAP Act, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, the prayer for grant of bail to the petitioner is, hereby, rejected.

10. Learned trial Court is directed to expedite the trial.

(Rudra Prakash Mishra, J)

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