

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9355 of 2023

Arising Out of PS. Case No.-261 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

Manish Kumar Son Of Rambabu Paswan R/O Village- Harpur Lahauri, P.S.-
Ahiyapur, District- Muzaffarpur, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with
CRIMINAL MISCELLANEOUS No. 64118 of 2022

Arising Out of PS. Case No.-261 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

Abhishek kumar s/o Bharat Kumar Sah R/O Village- Harpur Lahauri, P.S.-
Ahiyapur, District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :
(In CRIMINAL MISCELLANEOUS No. 9355 of 2023)
For the Petitioner/s : Mr. Prabhat Kumar Singh, Advocate
For the Opposite Party/s : Mr. Umeshanand Pandit, A.P.P.
(In CRIMINAL MISCELLANEOUS No. 64118 of 2022)
For the Petitioner/s : Mr. Rabindra Kumar Tiwary, Advocate
Mr. Mritunjay Kumar, Advocate
For the Opposite Party/s : Mr. Kanhiya Kishore, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

14 20-07-2024 Heard Mr. Prabhat Kumar Singh, learned counsel

 appearing on behalf of the petitioner in Criminal Miscellaneous

 No. 9355 of 2023 and Mr. Rabindra Kumar Tiwary, learned

 counsel for the petitioner in Criminal Miscellaneous No. 64118

 of 2022 and Mr. Umeshanand Pandit, learned A.P.P. for the State

 in Criminal Miscellaneous No. 9355 of 2023 and Mr. Kanhaiya



Kishore, learned A.P.P. for the State in Criminal Miscellaneous No. 64118 of 2022.

2. Petitioners, who are in custody since 09.04.2021, seek regular bail in connection with D.R.I (N.D.P.S) Case No. 35 of 2021 registered for offences punishable under Sections 399, 402, 34 of the Indian Penal Code, Section 25(1-B)A/26/35 of the Arms Act and Section 20 and 22 of the N.D.P.S. Act arising out of Ahiyapur P.S. Case No. 261 of 2021.

3. Learned counsel appearing on behalf of the petitioners submits that in respect of offence committed under the provision of the Narcotic Drugs and Psychotropic Substances Act, 1985, the Hon'ble Supreme Court, in case of ***Rabi Prakash Vs. The State of Odisha*** reported in ***2013 LiveLaw (SC) 533***, after observing the period of custody to be three and a half years spent by the appellant of the said case and taking into consideration the pace of trial, found that the precious Fundamental Right granted under Article 21 of the Constitution, in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b) (ii) of the N.D.P.S. Act and the Hon'ble Supreme Court was pleased to grant the concession of bail to the appellant of the said case.



4. Learned counsel informs that the petitioner is in custody since 09.04.2021 and trial is also at very initial stage and seeks to withdraw the present bail applications with a liberty to avail appropriate remedy for considering his claim for bail in light of the observation made by the Apex Court in case of *Ravi Prakash (Supra)*.

5. Accordingly, the present bail applications are dismissed as withdrawn with the aforesaid liberty.

(Purnendu Singh, J)

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