

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70767 of 2024

Arising Out of PS. Case No.-5 Year-2024 Thana- Chhaudahi District- Begusarai

Sandeep Kumar @ Sandeep Kumar Yadav S/o Late Ram Daresh Yadav R/o
Village- Pokhra, Ward No.07, P.S.- Alauli (Bahadurpur O.P.), District-
Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar, Advocate

For the Opposite Party/s : Mr. Murli Dhar, APP

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

ORAL ORDER

3 20-11-2024 Heard learned counsel for the petitioner, learned APP for
the State and perused the case diary.

2. The petitioner seeks bail in connection with
Chhorahi P.S. Case No. 05 of 2024 instituted for the offences
under Sections 447, 387, 389, 506/34 of the Indian Penal Code
(for brevity ‘the I.P.C’) and Sections 10, 13, 17, 18 & 20 of the
Unlawful Activities (Prevention) Act [for brevity the ‘U.A.P.
Act’].

3. Prosecution case in short is that on 16-03-2024 at
about 23:00 hours informant received a call - who is an owner



of a brick kiln - from one of his employees, who informed that nine people came on three motorcycles and handed him over a letter of Communist Party (*Maovadi*, North Bihar, Central Zonal Committee) which contained a demand of one lakh rupees by 26-03-2024. The letter was signed by one '*Sanesh Bhagat*'. Those people informed that the letter be handed over to the owner of brick kiln. It was also said that if the owner informs the incident to anyone or does not pay the levy then there would be consequence of blasting with bomb.

4. Learned counsel for the petitioner submitted that the petitioner is innocent and has falsely been implicated in the present case. Learned counsel further submitted that petitioner is neither a naxal nor has any concern with the naxal organization. Petitioner is not named in the FIR and his name surfaced in this case during course of investigation and his self-confessional statement and the same has no evidentiary value in the eye of law. Nothing incriminating has been recovered from the possession of the petitioner. Learned counsel further submitted that there are four cases pending against the petitioner and due to the large number of criminal antecedent, petitioner has been dragged in this case merely on the basis of suspicion. It has been submitted on behalf of the petitioner that the petitioner



is in custody since 14-04-2024. It is lastly submitted that police after completion of investigation has submitted charge sheet in this case.

5. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. Learned APP further submitted that there is ample material against the petitioner in the case diary to establish his active participation in the offence beyond the reasonable doubt, coupled with the fact that petitioner has four criminal antecedents and he has also confessed his complicity in the alleged occurrence, which fact finds mention at paragraph No. 46 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. Learned APP for the State further submitted that since police after investigation submitted charge-sheet under Sections 447, 387, 389, 506/34 of the IPC and Sections 10, 13, 17, 18 & 20 of the UAP Act, *prima facie*, the involvement of the petitioner in the alleged offences cannot be denied. Learned counsel, therefore, contended that in the light of the present facts and



circumstances of the case, the prayer of the petitioner for grant of bail may be rejected.

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)

Raj Kishore/-

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