

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.72526 of 2023

Arising Out of PS. Case No.-62 Year-2021 Thana- MADHUBAN District- East Champaran

Sachin Kumar Singh @ Sonu Son Of Kamod Kumar Singh Resident Of
Village Delho, P.S.- Madhuban, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar

For the Opposite Party/s : Mr. Akhileshwar Dayal

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 02-02-2024 Heard Mr. Abhishek Kumar, learned counsel
appearing on behalf of the petitioner and learned Additional
Public Prosecutor for the State.

2. An application for grant of bail to the petitioner, who is in custody since 06.03.2021, in connection with NDPS Case No. 21 of 2021, arising out of Madhuban P.S. Case No. 62 of 2021, registered for the offences punishable under Sections 399, 402, 414 of the Indian Penal Code; Sections 25(1-B)(a), 26/35 of the Arms Act and Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act.

3. Earlier twice the prayer for bail of the petitioner was rejected by this Court vide order dated 07.04.2022 in Cr. Misc. No. 57965 of 2021 and thereafter on 08.02.2023 in Cr. Misc. No. 74900 of 2022. While negating the prayer of the



petitioner on the last occasion, taking note of the fact that the charges were framed way back on 23.04.2022, but till the date not even a single witness was examined, this Court had directed the learned trial court to take all endeavours 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.

4. It is submitted on behalf of the petitioner that though the prayer for bail of the petitioner was rejected on 08.02.2023 with an observation and direction to expedite the trial and conclude the same as early as possible, but till date not even a single witness has been examined and thus there is no likelihood of the conclusion of the trial. He further submits that though the prayer for bail of the petitioner has been rejected on merit considering the recovery of 1.080 Kg. *charas*, apart from one country-made pistol and cash but at the cost of repetition, he would like to submit that from the narratives made in the FIR, when the police conducted raid, there were all together 7-8 persons, who were succeeded in fleeing away and the petitioner was only apprehended and as such, it cannot be alleged that the entire recovery has been made from the possession of the petitioner. He next submits that *vide* order dated 08.12.2023, the FSL report was called for from the learned trial court. However,



from the report, it appears that narcotic substance was allegedly kept in two polythene bags but surprisingly only one sample has been sent to the FSL. He next submitted that now almost three years of incarceration is likely to be completed, without providing speedy trial.

5. On the other hand, learned APP for the State vehemently opposes the bail application and submits that the commercial quantity of *charas* has been recovered from the possession of the petitioner and apart from the rigours provided under Section 37 of the NDPS Act, the material available on record does not absolve the petitioner from the, *prima facie*, guilt of this case. All the more, twice the prayer for bail of the petitioner has been rejected on merit and there is no overwhelming and cogent circumstances for renewal of the prayer for bail.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that despite the petitioner having been incarcerated for over a period of two years 11 months, till date not even a single witness has been examined and there is no likelihood of the conclusion of the trial in near future, apart from the mandate of the Hon'ble Supreme Court in the cases of *Hussainara Khatoon v. Home Secy., State*



of Bihar [(1980) 1 SCC 81], Satendra Kumar Antil v. Central Bureau of Investigation [2022 (3) BBCJ] and Mohd Muslim @ Hussain v. State (NCT of Delhi) 2023 SCC OnLine SC 352, where in sum and substance held that Article 21 of the Constitution included within its ambit the right to speedy trial and the procedure under which a person is deprived of personal liberty should be reasonable and fair; and the rigor as provided under Section 37 of the NDPS Act would not come in the way, where the liberty of a person is questioned. The more the rigor, the quicker the adjudication ought to be. Let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs. 50,000/- (Rupees fifty thousand) with two sureties of the like amount each to the satisfaction of learned 12th Additional Sessions Judge, East Champaran, Motihari in connection with NDPS Case No. 21 of 2021, arising out of Madhuban P.S. Case No. 62 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of



trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below 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 court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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