

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12801 of 2025

Arising Out of PS. Case No.-114 Year-2018 Thana- DUMARIAGHAT District- East
Champaran

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Pappu Sahani S/O Bhola Sahani R/O Village - Jogiya, P.S- Harsidhi, Dist-
East Champaran, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Pankaj, Advocate
For the Opposite Party/s : Mr. Rajendra Prasad Nat, APP

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

ORAL ORDER

4 13-08-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner seeks bail in connection with NDPS
Case No. 39 of 2018 arising out of Dumariyaghat P.S. Case No.
114 of 2018 instituted for the offence under Sections 20 & 22 of
the NDPS Act. Earlier vide order dated 13-05-2019, passed in
Cr. Misc. No. 31696 of 2019, regular bail of the petitioner was
rejected by a Co-ordinate Bench of this Court.

3. Learned counsel for the petitioner submits that the
present one is the second attempt for grant of regular bail to the
petitioner. It is mainly submitted that charge in this case is
framed and till date, only three witnesses out of seven charge
sheet witnesses have been examined. It has been submitted on



behalf of the petitioner that the petitioner is in custody since 12-07-2018. Learned counsel further submits that there is no likelihood of the trial being concluded in the near future. Learned counsel goes on to submit that the continued incarceration of the petitioner without conclusion of trial amounts to a gross violation of the fundamental right guaranteed under Article 21 of the Constitution of India, which is reiterated by Hon'ble Apex Court in plethora of judgments. Specific reliance is placed upon paragraph No. 4 of a decision of the Hon'ble Apex Court in the case of ***Rabi Prakash vs. State of Odisha*** reported in ***2023 SCC Online SC 1109***, which is reproduced hereinbelow:-

“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in



such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.”

4. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner.

5. A report from the trial court was called from and it is reported that three out of seven charge sheet witnesses have been examined in this case.

6. Considering the aforesaid facts and circumstances of the case, period of custody of the petitioner and taking into account the fact that continued detention of the petitioner would serve no purpose other than punitive pretrial incarceration, which is antithetical to the spirit of Article 21 of the Constitution of India, this Court is inclined to grant bail to the petitioner.

7. Let the petitioner be released on bail on furnishing bail bonds of Rs. 15,000/- (Fifteen Thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with NDPS Case No. 39 of 2018 arising out of Dumariyaghat P.S. Case No. 114 of 2018, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the petitioner.



(II) The petitioner shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the petitioner.

(III) The petitioner shall not leave the territorial jurisdiction of the court below without its prior permission.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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