

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.6645 of 2025

Arising Out of PS. Case No.-634 Year-2021 Thana- SAKRA District- Muzaffarpur

Kamlesh Kumar S/o- Late Upendra Mahto Village- Ladaura Chowk Ps-
kalyanpur Dist- Samastipur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mrs. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 14-02-2025 Heard Mr. Alok Kumar Alok, learned counsel for
the petitioner and Mrs. Gulnar Begum, learned Additional
Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since
31.01.2022 in connection with NDPS Case No. 23 of 2022
arising out of Sakra P.S. Case No. 634 of 2021, F.I.R. dated
31.12.2021 for the 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 8, 20 and 22 of the NDPS Act.

3. Earlier the bail application of the petitioner was
rejected twice on 22.06.2023 and 10.05.2024 passed in Cr.
Misc. No. 73926 of 2022 and Cr. Misc. No. 22131 of 2024
respectively.

4. Learned counsel for the petitioner submits that



petitioner is innocent and he has falsely been implicated in the present case. He further submits that as per allegation in the F.I.R, 1 kg Charas, 1 Vivo mobile phone, 1 country made pistol with 1 live cartridge and 1 Honda motorcycle was recovered from the possession of the co-accused persons including the petitioner. He further submits that nothing has been recovered from the conscious possession of the petitioner rather the police had planted the same and shown that the recovery has been made from the possession of the petitioner. He further submits that similarly situated, co-accused, namely, Rahul Kumar has been granted bail by a Co-ordinate Bench of this Court vide order dated 23.12.2022 passed in Cr. Misc. No. 25590 of 2022 and another co-accused, namely, Bishnudev Paswan @ Vishnudev Paswan has been granted bail by a Co-ordinate Bench of this Court vide order dated 31.01.2025 passed in Cr. Misc. No. 87153 of 2024. He further submits that although the recovery has been made from the possession of the petitioner but the petitioner is in custody since 31.01.2022 but the trial is not in progress.

5. Learned counsel for the petitioner relied upon the order dated 26.04.2024 passed in Cr. Misc. No. 60694 of 2023 in which the Court has been pleased to allow bail in favour of



the petitioner (Ramanand Yadav) on the ground that the trial is not concluded despite the fact that the petitioner is in custody since 08.03.2021 in the aforesaid case.

6. Vide order dated 31.01.2025 a report was called with regard to stage of the trial. Report of the learned Trial Court dated 05.02.2025 reveals that the charge has been framed against the petitioner and other accused persons on 23.08.2023 but till now no prosecution witness has been examined by the prosecution.

7. Learned counsel for the petitioner submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in the near future and the petitioner is in judicial custody since 31.01.2022 more than 3 years.

8. Learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that the recovery has been made from the possession of the petitioner. Apart from that the petitioner carries 5 criminal antecedents other than the present one but fairly submits on the basis of paragraph 3 of the bail petition that the petitioner is on bail in three cases and in two cases the petitioner has been acquitted by the learned Trial Court itself.

9. Considering the aforesaid facts and circumstances,



report of learned Trial Court, period of custody as well as the fact that the similarly situated co-accused persons have been granted bail by different Co-ordinate Bench of this Court, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge (NDPS) Muzaffarpur in connection with NDPS Case No. 23 of 2022 arising out of Sakra P.S. Case No. 634 of 2021, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that 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 step for cancellation of bail bond of the petitioner. However, the



acceptance of bail bonds in terms of the above-mentioned order
shall not be delayed for purpose of or in the name of
verification.

(Rajesh Kumar Verma, J)

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