

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56695 of 2025

Arising Out of PS. Case No.-88 Year-2023 Thana- IMAMGANJ District- Gaya

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Ajay Das @ Ajay Kumar @ Ajay Kumar Ravidas S/o Late Feku Das R/o
Village - Dhardhara, P.S - Hunterganj, District - Chatra (Jharkhand)

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Singh, Advocate

For the Opposite Party/s : Mr. Anil Kumar Singh No. 1, APP

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 14-11-2025 Heard Mr. Krishna Prasad Singh, learned Senior counsel
for the petitioner and the State.

2. The petitioner is in custody in connection with
Imamganj PS Case No. 88 of 2023 for the offence punishable
under Section 8, 17(C) and 18(C) of the NDPS Act, lodged on
04.04.2023 by the informant, Uday Shankar.

3. Earlier, the bail application of the petitioner stands
rejected vide order dated 04/10/2024 in Cr. Misc. No. 39362 of
2024 and this is the second attempt.

4. As per the prosecution story, the police intercepted a
bus and recovered/seized altogether, 5 kg 'afeem' from a bag which
was lying beside the petitioner and the case of the Police is that it
belongs to him. Accordingly, the FIR lodged, seizure list prepared
and he was taken into custody.



5. Learned Senior counsel for the petitioner submits that he has remained in custody since 04.04.2023, has no criminal antecedent and further, the trial has still not started. He has taken this Court to an order of the **Honble Apex Court in the case of Rabi Prakash vs. The State of Odisha reported in 2023 LiveLaw (SC) 533** to submit that when there is delay in the conclusion of the trial, appropriate order can be passed.

6. Learned APP opposes the prayer submitting that 5 kg of ‘*afeem*’ has been recovered which led to the present case.

7. In this case, the Trial Court report was called for and letter no. 232 dated 15.10.2025 shows that despite request made to the District Magistrate, Gayaji vide letter no. 182 dated 15.07.2025 and letter no. 215 dated 10.09.2025, the Special Prosecutor has not been designated and as such, the trial could not be initiated.

8. Paragraph-4 of the order passed in **Rabi Prakash** (supra) read as follows:

“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.”

9. This Court has heard the learned State counsel and as such, the first condition has been met. Regarding second condition that the petitioner is not guilty, in the aforesaid circumstance, that even the Special prosecutor has not been designated, he has remained in custody for more than two and a half years, taking into account the aforesaid order of Rabi Prakash (supra) and the petitioner do not have any criminal antecedent, in that background, this Court is inclined to grant him privilege of bail.

10. Let the petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Additional District and Sessions Judge, Sherghati, Gaya in connection with Imamganj PS Case No. 88 of 2023 subject to the following conditions:

(i) one of the bailor should be the family member/relative of the petitioner who shall provide official



document to show his/her bona fide;

(ii) the petitioner shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the petitioner shall appear before the concerned police station every month till the conclusion of the trial to mark his attendance and after the end of the period, the certificate shall be submitted before the Trial Court failing which steps shall be taken for the cancellation of the bail bonds;

(iv) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the petitioner shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Adnan/-

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