

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70854 of 2024

Arising Out of PS. Case No.-12 Year-2020 Thana- N.C.B (GOVERNMENT OFFICIAL)
District- Bhagalpur

Ashok Kumar Yadav, Son of Narayan Yadav, R/o Village-Birpur, P.S.-
Lalmaniya, District- Madhubani

... .. Petitioner

Versus

The Union of India through the NCB, Patna

... .. Opposite Parties

Appearance :

For the Petitioner : Mr. Ashok Kumar Mishra, Advocate

For the Union of India (NCB): Mr. Awadhesh Kumar Pandey, Senior C.G.C.

Mr. Arvind Kumar, CGC

Mr. Lokesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

9 30-07-2025 Heard learned counsel for the petitioner and learned
senior counsel appearing for the Union of India/NCB.

2. The accused/petitioner seeks bail in connection
with NDPS Case No.28 of 2020 arising out of NCB Case
No.12 of 2020 registered for the offences punishable under
Sections 20(b)(ii)(c), 25, 26, 29, 35 and 60 of the Narcotic
Drugs and Psychotropic Substances Act (in short 'NDPS Act').

3. The accused/petitioner is named in the FIR and is
in custody since 14.10.2020.

4. Allegation against the petitioner is to have in
possession of 370 kg. of *ganja*.



5. It is submitted by learned counsel appearing for petitioner that petitioner remains in custody since 14.10.2020, whereas out of eight charge-sheeted witnesses, only three witnesses have been examined in last five years. It is submitted that petitioner cannot be kept behind the bar for indefinite period in want of trial. In support of his submission that speedy trial is a fundamental right of the accused/petitioner, Mr. Mishra relied upon the legal report of Hon'ble Supreme Court as available through **Hussainara Khatoon & Ors vs. Home Secretary, State of Bihar** reported in **(1980) 1 SCC 98**. It is pointed out by learned counsel that petitioner found involved in two criminal cases of petty nature, where he is on bail.

6. Without exploring any avenues of available merit, learned counsel appearing for petitioner straightway relied upon legal report of Hon'ble Supreme Court as available through **Rabi Prakash vs. State of Odisha** since reported in **2023 SCC OnLine SC 1109** and submitted that the case of petitioner is squarely covered on the ground of prolonged incarceration, as it appears to 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.

7. Learned Central Government counsel appearing for NCB could not disputed the aforesaid factual submissions *qua* progress of trial and also the period of custody.

8. In view aforesaid, considering the prolonged incarceration of about five years and slow progress of trial, the petitioner, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 11th Additional Sessions Judge, Bhagalpur in connection with N.D.P.S. Case No.28 of 2020 arising out of NCB Case No.12 of 2020, subject to the conditions as laid down under Section 437(3) of the Code of Criminal Procedure (for short 'CrPC')/under Section 480(3) of the Bhartiya Nagrik Suraksha Sanhita (for short 'BNSS') and with further conditions:-

(i) That petitioner shall co-operate
in the trial and shall be physically present on



each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court only on medical ground of the petitioner duly supported by the documents. Upon non-cooperation, the prosecution may be at liberty to move before the learned trial court itself for cancellation of bail bond of the petitioner.

9. Before parting with this order, it is important to mention that six witnesses in this matter are NCB officials and two are seizure list witnesses. However, the department has failed to produce their witnesses for examination in last five years. It is the laches of the department due to which, the trial was not concluded and petitioner remains in custody for long five years.

10. Considering the nature of offence, which affecting adversely the socio-economic framework of our country, the Joint Director, NCB, Patna is directed to look into this matter and to take all possible steps for expeditious disposal of such matters including this case, by producing official witness, in time, to check such accused to avail benefit out of delayed trial.



11. Let a copy of this order be communicated to the Joint Director, NCB, Patna forthwith, for necessary compliance.

(Chandra Shekhar Jha, J.)

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