

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84243 of 2024

Arising Out of PS. Case No.-5 Year-2021 Thana- D.R.I District- Patna

Subhash Chaubey @ Baba, S/o Madan Chaubey, R/o near Gram Chowk, P.S.
- Kanti, Kolhua, Paigambarpur, Kolhua, Muzaffarpur

... .. Petitioner/s

Versus

The Union of India through Directorate of Revenue Intelligence, Patna
BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Nandan Prasad Singh, Sr. Adv. Mr. Gaurav Kumar, Adv. Mr. Mukund Kumar, Adv.
For the DRI	:	Mr. Amit Pandey, Adv. SSC, Mr. Abhishek Kumar, Adv. JSC.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

9 18-04-2025 Heard Mr. Nandan Prasad Singh, learned senior

counsel for the petitioner and Mr. Amit Pandey, learned counsel

for the Directorate of Revenue Intelligence (in short 'DRI').

2. Petitioner seeks regular bail in connection with
Special N.D.P.S. Case No. 133 of 2021 arising out of Case File
No. D.R.I./L.Z.U./P.R.U./718 (II) ENQ-10/2021 (D.R.I. Patna
unit Case No. 05/2021-22) dated 20.09.2021 registered for the
offences punishable under sections 20, 25 and 29 of the
Narcotics Drugs & Psychotropic Substances Act (in short
'NDPS Act').

3. The main submissions advanced by learned senior
counsel are that this is the third attempt of the petitioner to get



the relief of bail and he preferred Cr. Misc. Nos. 29316/2022 and 79945/2023 seeking the relief of bail which were rejected by this Bench vide orders dated 24.02.2023 and 23.02.2024 respectively considering the stage of the trial of the petitioner as well as examination of only 2 prosecution witnesses at that time and now, the petitioner has renewed his prayer mainly on the ground of his custody period as well as no progress in his trial. It is further submitted that as per the prosecution story, the petitioner and co-accused Jagdish Kumar travelling in the same vehicle were found escorting the alleged truck from which huge quantity of contraband is alleged to have been recovered and admittedly, the petitioner was not present in the alleged truck and further, the alleged truck stood registered in the name of the wife of this petitioner and the co-accused Jagdish Kumar has been granted bail by a co-ordinate Bench of this Court vide order passed in Cr. Misc. No. 42392/2024 and in view of the nature of allegation as to escorting the alleged truck, the case of this petitioner stands on similar footing with the said co-accused Jagdish Kumar. It is further submitted that though against the petitioner, there are criminal antecedents of two cases but none of these cases relates to the offence under NDPS Act and the petitioner has spent considerable period in jail which has been



about 3 years and 6 months and still the petitioner's trial is at mid stage as out of 10 prosecution witnesses, only 4 prosecution witnesses have been examined so far, hence, there is less possibility of completion of petitioner's trial in near future. It is further submitted that in the supplementary counter affidavit filed by the DRI, a criminal case bearing Bagha Patkhauli P.S. Case No. 315 of 2019 has been shown relating to the alleged truck which was used in transporting the contraband of the present matter but the petitioner has no connection to this case and he was not made accused in the said case and in this regard, the petitioner has filed a reply to the said supplementary counter affidavit and has made specific statement in his reply.

4. On the other hand, learned counsel appearing for the DRI submits that there is a serious allegation against the petitioner and the instant matter relates to the recovery of huge quantity of contraband, namely, ganja and admittedly, the alleged truck, from which the contraband was recovered, stood registered in the name of petitioner's wife and before the recovery of the contraband, the alleged truck was under the ownership of this petitioner but on 24.11.2020, the petitioner had transferred his ownership in favour of his wife and the petitioner was apprehended just near the place of recovery while



he was escorting the truck carrying the alleged contraband. It is lastly submitted that one co-accused Satendra Rai @ Satendra Ray has not been granted the relief of bail by a co-ordinate Bench of this Court vide order dated 24.02.2025 passed in Cr. Misc. No. 89666/2024.

5. Heard both the sides and perused the relevant materials. Though the instant matter relates to the recovery of huge quantity of contraband and the petitioner's prayer has already been rejected on merit but considering his present custody period which has been about 3 years and 6 months and as per the report sent by the trial court regarding the status of the examination of prosecution witnesses, till 18.02.2025, only 3 prosecution witnesses were examined completely and the 4th prosecution witness was examined partly and his cross-examination was partly done on 01.10.2024 and thereafter, the trial court repeatedly directed the prosecution to produce the said witness (P.W.-4) for remaining cross-examination but since then the said witness is not turning up and as per the learned counsel appearing for the DRI, out of 10 chargesheet witnesses, 8 are official persons and the said circumstance shows the delaying attitude on the part of the prosecution in producing the witnesses before the trial court and so far as the rejection of bail



prayer of co-accused Satendra Rai @ Satendra Ray is concerned, the learned co-ordinate Bench of this Court has rejected his prayer mainly considering his antecedent of one NDPS case while the petitioner has not remained involved in NDPS matters prior to the registration of the FIR of the present matter as per the statement made in this petition, so, considering this fact, this Court is now inclined to grant the relief of bail to the petitioner. Accordingly, let the petitioner named above be released on bail on furnishing bail bond of Rs.20,000/-(Twenty Thousand) with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Special N.D.P.S. Case No. 133 of 2021 arising out of Case File No. D.R.I./L.Z.U./P.R.U./718 (II) ENQ-10/2021 (D.R.I. Patna unit Case No. 05/2021-22).

(Shailendra Singh, J)

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