

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.89814 of 2024

Arising Out of PS. Case No.-261 Year-2021 Thana- AHYAPUR District- Muzaffarpur

Abhishek Kumar Son of Bharat Sah @ Bharat Kumar Sah R/o Village -
Harpur Lahauri, P.O.- M.I.T., P.S.- Ahiyapur, District - Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

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

For the Opposite Party/s : Mr.Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 31-01-2025 Heard Mr. Mrityunjay Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Umanath Mishra,
learned APP for the State.

2. Petitioner seeks regular bail in connection with
Ahiyapur P.S. Case No. 261 of 2021 registered 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
20/22 of NDPS Act.

3. Allegation is of recovery of 500 grams of *charas*
along with arms from two accused including the petitioner who
were apprehended on the basis of secret information received by
the raiding team.

4. Learned counsel appearing on behalf of the
petitioner submitted that earlier the bail application of the



petitioner was earlier rejected *vide* order dated 29.04.2022 passed in Criminal Miscellaneous No. 60379 of 2021. Learned counsel further submitted that the co-accused Avinash Kumar from whose possession 500 gm. of *charas* was recovered has already been granted bail by a co-ordinate Bench of this Court vide order dated 20.09.2022 passed in Cr. Misc. No.67997 of 2021. No recovery, so far as *charas* is concerned, has been made from the possession of the petitioner. Petitioner has clean antecedent and he is in custody since 09.04.2021, i.e., more than three years and 9 months. Learned counsel in this regard has relied upon the judgment of the Apex Court rendered in the case of **Rabi Prakash Vs. The State of Odisha (SLP (Cri) No(s). 4169 of 2023)**.

5. Learned APP appearing for the State vehemently opposes the bail prayer and submitted that out of eight witnesses, five have been examined.

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that no recovery of *charas* has been made from the possession of the petitioner, who is in custody since 09.04.2021, though the trial has progressed but considering the fact that co-accused from whose possession, recovery of *Charas* was made has already been released on bail,



the learned District Court is directed to conclude the trial expeditiously and the Superintendent of Police concerned is also directed to produce the witnesses on each date of trial.

7. In the meantime, the learned District Court is directed to release the petitioner, above named, on bail upon furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, Exclusive Special Court-1 (NDPS Act) Muzaffarpur in connection with Ahiyapur P.S. Case No. 261 of 2021 subject to the following conditions:

(i) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

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

(iv) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bond.

(v) The learned District Court is directed to verify the



criminal antecedent of the petitioner as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioner as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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