

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76654 of 2025

Arising Out of PS. Case No.-4 Year-2016 Thana- ECONOMIC OFFENCES, BIHAR
District- Patna

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Rakesh Singh @ Rakesh Kumar Singh S/o Lakshman Singh R/o Village-
Vishwambharpur, Sutihaar, P.S.- Derni, District- Saran, Bihar- 841222
... .. Petitioner/s

Versus

The State of Bihar through Superintendent of Police, Economic Offence Unit,
Patna, Bihar Bihar
... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kr. Pandey, Advocate
Mr. Prakash Raj, Advocate
For the Opposite Party/s : Mr. Vijay Anand, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL ORDER

7 17-04-2026 Heard Mr. Abhishek Kr. Pandey along with Mr.

Prakash Raj, learned counsels appearing on behalf of the
petitioner and Mr. Vijay Anand, learned counsel for the
Economic Offence Unit, Bihar.

2. The petitioner seeks regular bail in connection with
Special (NDPS) Case No.8000077 of 2016, Supplementary
Record of Special Case No.20 of 2016 arising out of Economic
Offence P.S. Case No.04/2016 registered for the offence(s)
punishable under Sections 8/20(b)(ii)(c)/25/29 of NDPS Act.

3. As per the allegation made in the FIR, 425 kg. of
Ganja was recovered from a truck bearing Registration No.OR-
09L-7645.

4. Learned counsel appearing on behalf of the
petitioner submitted that the FIR is of the year 2016 and



petitioner was taken into custody on 08.03.2021 and since then he is in custody. Learned counsel further submitted that the earlier regular bail applications of the petitioner was disposed of *vide* order dated 05.05.2022 passed in Cr. Misc. No.62849 of 2021 and order dated 20.01.2025 passed in Cr. Misc. No.33465 of 2024. The petitioner has renewed his prayer for bail on the ground of long incarceration which according to him is about 5 years and also on the ground that the other co-accused who was convicted and sentenced to undergo rigorous imprisonment for 11 years and fine of Rs. 1,20,000/- and in default of payment of fine to further undergo simple imprisonment for six months, had filed appeal before this Court being Criminal Appeal (DB) No.618 of 2021 and *vide* order dated 11.08.2022, the sentence of the appellant was suspended and bail was granted to the said co-accused by this Court. It is the case of the petitioner that petitioner has remained in custody nearly for five years and the trial is at very early stage in which only two witnesses have been examined. Learned counsel further submitted that the petitioner has every chance to be acquitted by the trial court in absence of any evidence considering the fact that merely on suspicion that the petitioner is owner of the truck bearing Registration No.OR-09L-7645 from which a concealed chamber



was allegedly discovered, containing a large quantity of *ganja*. It is also the case of the petitioner that he has been implicated in the present case matter merely on suspicion, which significantly diminishes the evidentiary value of the allegations against him, and as such, there being no likelihood that the petitioner will be convicted, the petitioner becomes entitled to be released on bail, so that liberty granted under Article 21 of the Constitution of India should not be defeated. A reference in this regard has been made to the judgment of the Supreme Court in case of ***Rabi Prakash Vs. The State of Odisha (SLP (Cri) No(s). 4169 of 2023***), reported in ***2023 Live Law SC 533***, wherein in similar circumstances considering the custody of the accused for about 3 and a half years, who was made accused merely because he was one of the occupants of the truck and was arrested on the spot, was granted bail by the Hon'ble Supreme Court. On these grounds, petitioner seeks to be released on pre-arrest bail.

5. *Per contra*, Mr. Vijay Anand, learned counsel appearing on behalf of the EOI, Bihar, submitted that the petitioner, being the owner of the truck, was actively involved in the illegal smuggling and sale of narcotics. It is argued that the very existence of a concealed chamber in the vehicle indicates a premeditated design and *mens rea* to commit the offence,



thereby disentitling the petitioner from being granted bail, even the petitioner having been in custody for 5 years. Learned counsel further submitted that, on the basis of the seizure list, even in the absence of any prosecution witnesses supporting the petitioner's case, there remains a strong likelihood of conviction in the present matter, particularly in view of the fact that the co-accused has already been convicted. On these grounds, learned counsel submitted that petitioner don't deserve to be released on bail.

6. Having heard the rival submissions made on behalf of the parties, I find that I have already disposed of the bail application of the petitioner twice, however, considering the long incarceration of the petitioner in custody and only two witnesses have been examined as has been informed and has not been denied by the prosecution, I find that it apt to take the observation made by the Hon'ble Supreme Court in case of ***Rabi Prakash (Supra)*** in paragraphs no.3, 4 and 6, which are *inter alia* reproduced hereinafter:-

"3. We are informed that the trial has commenced but only 1 out of the 19 witnesses has been examined. The conclusion of trial will, thus, take some more time.

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.

5. However, we find some merit in the contention of learned counsel for the respondent - State that the petitioner being not a resident of the State of Orissa, some stringent conditions are required to be imposed upon him.

6. Consequently, while directing that the petitioner shall be released on bail on his furnishing bail bonds to the satisfaction of the Trial Court, it is directed that he shall be required to produce two local sureties before the Trial Court. The petitioner shall also appear before the Trial Court on every date of hearing. In case he absents himself, it shall be taken as a misuse of concession of bail granted to him today by this Court. Ordered accordingly.”

7. In the facts and circumstances of the case, I find that the case of the petitioner is squarely covered by the fact of the case of ***Rabi Prakash (Supra)*** and at the same time, long incarceration of five years, entitles the petitioner to be released on bail to safeguard his right guaranteed under Article 21 of the Constitution of India.

8. 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 141- Exclusive Special Court No.1, Patna in connection with Special (NDPS)



Case No.8000077 of 2016, Supplementary Record of Special Case No.20 of 2016 arising out of Economic Offence P.S. Case No.04/2016 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 learned District 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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