

Rajiv Kumar @ Rajiv Das vs The State Of Bihar on 15 March, 2023

Author: Shailendra Singh

Bench: Shailendra Singh

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.239 of 2023

Arising Out of PS. Case No.-6 Year-2022 Thana- CHAPRA RAIL P.S. District- Saran

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Gautam Kumar S/o Sri Hira Lal Das resident of village-rampur shyamchand,
p.s.- Raghapur, District- Vaishali.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 3895 of 2023

Arising Out of PS. Case No.-6 Year-2022 Thana- CHAPRA RAIL P.S. District- Saran

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Anurag Das son of lal bahadur das resident of village - ramur shyamchand,
p.s.- Raghapur, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 3921 of 2023

Arising Out of PS. Case No.-6 Year-2022 Thana- CHAPRA RAIL P.S. District- Saran

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Rajiv Kumar @ Rajiv Das son of sri sanjay das resident of village - rampur
shyamchand, p.s.- Raghapur, District - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 239 of 2023)

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

For the Opposite Party/s : Mr.Akhileshwar Dayal, APP

(In CRIMINAL MISCELLANEOUS No. 3895 of 2023)

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

For the Opposite Party/s : Mr.Lalan Kumar, APP

(In CRIMINAL MISCELLANEOUS No. 3921 of 2023)

Patna High Court CR. MISC. No.239 of 2023(5) dt.15-03-2023

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

For the Opposite Party/s : Mr.Binod Kumar No.3, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

5 15-03-2023

As all the criminal miscellaneous petitions have arisen out of same P.S. case, hence they are being taken up and decided together.

Heard learned counsel for the petitioners and the learned APPs for the State.

Petitioners seek regular bail in connection with Rail Chapra P.S. Case No. 06 of 2022 registered for the offences punishable under Sections 8, 20(b)(ii)(c) of NDPS Act.

Earlier also, petitioners had moved this Court for grant of regular bail which was rejected vide Annexure 1.

As per the prosecution's story, a special checking drive was being conducted to check the smuggling of wine and narcotic material at the railway station concerned and in the present case the petitioners who were found in Bihar Sampark Kranti Express train tried to run away on seeing the police party but they were apprehended and from the possession of petitioner Gautam Kumar 11 kg narcotic material suspected to be Ganja and from the possession of petitioner Anurag Das 10 kg narcotic material suspected to be Ganja and from the petitioner Rajiv Kumar 10 kg narcotic material suspected to be Ganja kept in Patna High Court CR. MISC. No.239 of 2023(5) dt.15-03-2023 several bags respectively recovered along with mobile phones.

The main submissions advanced by the learned counsel for the petitioners are that all these petitioners jointly preferred Cr. Mis. No. 22106 of 2022 for the relief of regular bail which was heard and rejected on 21.07.2022 by this Bench thereafter all these petitioners again filed the instant criminal miscellaneous petitions separately for the same relief and upon the petitioners the charges were framed on 28.04.2022 and altogether 14 persons have been made witnesses in the charge-sheet and summons and bailable warrants were issued to them for getting their appearance for

examination before the trial court, but despite of the lapse of about one year, no prosecution witness has turned up in the trial of the petitioners, while as per the charge-sheet most of the witnesses are official persons which shows the lingering attitude of the prosecution in concluding the petitioners' trial and in this regard this court has also called for a report from the trial court about the status of the progress of the petitioners' trial. Further submission is that all these petitioners have fair and clean antecedent and have been languishing in jail since 08.01.2022 and the quantity of the alleged contraband which was recovered from each of the petitioners comes in the purview of intermediate quantity which Patna High Court CR. MISC. No.239 of 2023(5) dt.15-03-2023 is lesser than commercial quantity.

Learned APPs appearing for the State have opposed the bail prayer.

Considering the above submissions and mainly the prosecution's lingering attitude in producing and examining the prosecution witnesses despite of most of the witnesses of the prosecution being official persons and all these petitioners have fair and clean antecedent and have been languishing in jail since 08.01.2022, in the opinion of this court, the petitioners deserve to a lenient approach of this court. Accordingly, let the petitioners be released on bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the concerned Court in connection with Rail Chapra P.S. Case No. 06 of 2022.

(Shailendra Singh, J) Rajiv/-

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