

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.25973 of 2016

Arising Out of PS.Case No. -543 Year- 2015 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

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Nagendra Yadav Son of Awadesh Yadav

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Advocate

For the Opposite Party/s : Mr. Awadhesh Kr.Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 26-07-2016

Heard learned counsels for the petitioner and the

State.

The petitioner is languishing in custody since
16.09.2015 in a case registered for the offences punishable under
sections 20/22/23/24/27A of the NDPS, Act (hereinafter referred
to as the Act)

Prosecution case is that during the assembly
elections vehicle check was going on and from the possession of
the petitioner 400 gram 'Charas' like material, Honda Sine
Motorcycle and from the right packet of the paint 5 keys of
motorcycle were recovered. Co-accused Anand Kumar Yadav
was also found travelling on the same motorcycle.

It is submitted by learned counsel for the petitioner
that only on suspicion the accusation has been levelled. The



recovery is between the small and commercial quantity. Though the petitioner is accused in two other cases i.e. Bettiah Town P.S. Case No.601/2015, registered under section 379 IPC and Bettiah Muffasil P.S. Case No.539/2015, under section 379 IPC, and he is on bail in both the cases. The petitioner has never been made accused in any case under the NDPS Act. The investigation has already concluded. It is further submitted that though the case has been registered under Sections 24 and 27A of the Act wherein in view of provision under section 37 of the Act, the accused is not entitled for release on bail unless the Court is not satisfied that there are reasonable ground for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail. It is further submitted that even assuming the accusation no case under sections 24 and 27A of the, Act is made out as section 24 of the Act stipulates punishment for external dealings in narcotic drugs and psychotropic substances in contravention of Section 12 of the Act. It further stipulates that any person engages in or controls any trade whereby a narcotic drug or a psychotropic substance is obtained outside India and supplied to any person outside India without the previous authorization of the central government or otherwise than in accordance with the conditions (if any) of such authorization



granted under section 12 of the Act, then he is not entitled for bail but in the present case there is no accusation of getting engaged or controlling any trade whereby narcotic drug or a Psychotropic substance was obtained or supplied outside India. Hence, no offence under section 24 of the Act is made out. Section 27A of the Act stipulates that any person indulges in financing, illicit trafficking directly or indirectly, or harbours any person engaged in any of the activities specified in sub Clauses (i) to (v) of Clause (viii) of Section 2 of the Act but there is no accusation of financing directly or indirectly or harbouring any person, hence, no offence under section 27A of the Act is made out. Since the petitioner has never been accused in any other case under NDPS Act, hence, there is no likelihood of committing the same nature of offence while on bail.

Mr. J. N. Thakur, learned APP for the State does not controvert this contention of the petitioner that the accusation prima facie, does not constitute any offence under sections 24 and 27A of the Act and in view of the statement made in paragraph 3 of the petition that the petitioner is not accused in any other case under NDPS Act. There is no likelihood of committing the same nature of offence while on bail.

Considering the above facts including the recovery

between the small and commercial quantity and the investigation being concluded, let the above named petitioner be released on bail, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 3rd Additional District and Sessions Judge, West Champaran at Bettiah, in connection with Trial No.24 of 2015, arising out of Bettiah Muffasil P.S. Case No.543/2015.

However, the learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for two consecutive occasions or gets involved in some serious nature of offence.

(Dinesh Kumar Singh, J)

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