

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.26965 of 2016

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

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1. Samiyal Singh son of Late Jaun Singh, Resident of Mohalla- Naya Tola,
Jurab ganj, Police Station- Korha, District- Katihar.

.... 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

For the Opposite Party/s : Mr. Kalayan Shankar(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 18-08-2016

The petitioner is languishing in custody since 15.09.2015 in a case registered for the offences punishable under Sections 414/34 of the Indian Penal Code and Sections 20, 22, 23, 24, 27A & 29 of the NDPS Act.

The prosecution case is that during Assembly Elections vehicle check was going on when four persons were apprehended. From the possession of three persons including the petitioner 400 grams of charas each and from the possession of co-accused Mahendra Yadav 800 grams of Charas were recovered.

It is submitted by learned counsel for the petitioner that only on suspicion the accusation has been levelled and the recovery is between the small and commercial quantity. Though, the petitioner is accused in two other cases being Bettiah Town P.S. Case No. 601 of 2015 and Bettiah



Muffasil P.S. Case No. 539 of 2015 both registered under Section 379 I.P.C but he is on bail in those cases. A statement to that effect has been made in para 3 of the petition. The investigation has already concluded. It is further submitted that though the case has also been registered under Sections 24 and 27A of the NDPS Act and in view of the embargo under Section 37 of the NDPS Act the accused is not entitled for release on bail, unless the Court is satisfied that there are reasonable ground for believing that he is not guilty of the offence alleged and he is not likely to commit any offence while on bail but the accusation does not suggest any offence under Section 24 or 27A of the Act. Even assuming the accusation no offence under Sections 24 and 27A NDPS Act are made out as Section 24 of the NDPS Act stipulates punishment for external dealings in narcotic drugs and psychotropic substances in contravention of section 12 when 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 of such authorization granted under section 12. But, in the present case there is no accusation of dealing in the narcotic drugs and psychotropic substances outside the India, hence, no offence under Section 24 NDPS Act is made out. Moreover, Section 27A of the NDPS Act stipulates punishment

for financing illicit traffic and harbouring offenders, but there is no such accusation in the present case, hence, no offence under Section 27A of the NDPS Act is made out.

Learned APP after going through the FIR, suggests the offences under Section 24 and 27 of the N.D.P.S Act and does not controvert the quantity of recovery.

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

The learned court below will be at liberty to cancel the bail bonds of the petitioner in two eventualities i.e. if he defaults for two consecutive occasions or substantially gets involved in similar nature of offence.

(Dinesh Kumar Singh, J)

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