

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.27519 of 2016

Arising Out of PS.Case No. -100 Year- 2013 Thana -RAMGARH District- BHABHUA (KAIMUR)

Santosh Kharwar @ Santosh Kumar Kharwar Son of Markandey Kharwar
Resident of Village Ramgarh, PS Ramgarh District Kaimur Bhabhua.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Tribhuwan Narayan

For the Opposite Party/s : Mr. Sri J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

03/ 01-09-2016

Heard learned counsels for the petitioner and

the State.

The petitioner is languishing in custody since 16.05.2016 in a case registered for the offences punishable under Sections 17, 18, 20(B) (C), 21, 22 and 27A of the NDPS Act.

The prosecution case is that on secret information co-accused Rajesh Kumar Gupta @ Bhim Singh and Dhannu Gupta @ Vijay Kumar Gupta was apprehended and from each apprehended co-accused 1 kg. Ganja was recovered. Subsequently apprehended co-accused Rajesh suggested that Vikash Kumar Keshri used to deal in supply of the Ganja through the pickup van of the petitioner. On the statement of Rajesh from his house 28.700 kgs. Ganja and from the house of Guddu Ram

2.96 quintals Ganja were recovered.

It is submitted by learned counsel for the petitioner that as per the prosecution case there is no recovery from the petitioner. There is nothing on record to suggest that any Ganja was every transported on the pickup van of the petitioner. The pickup van of the petitioner was never seized and on conclusion of the investigation the petitioner was not sent up for trial but differing with the final form cognizance has been taken. It is further submitted that, though, the accusation has also been levelled under Section 27A of the Excise Act but since there is nothing on record to suggest that the petitioner anywhere financed the illicit trafficking or harbour the offenders, hence, the embargo under Section 37 of the NDPS Act will not apply to the petitioner.

Mr. J. N. Thakur, learned counsel for the State, does not controvert this fact that there is no recovery from the petitioner nor vehicle of the petitioner was seized and any specific accusation that the pickup van of the petitioner was used for transporting the contraband. Moreover, on conclusion of the investigation the petitioner was not sent up for trail.

A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

Considering the aforesaid facts, let the above

named petitioner, 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 Additional Sessions Judge Ist, Kaimur at Bhabua in connection with Trial. No. 02 of 2015 arising out of Ramgarh P.S. Case No. 100 of 2013.

(Dinesh Kumar Singh, J)

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