

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.18810 of 2016

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

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1. Mahendra Yadav Son of Late Ram Yadav, Resident of Mohalla -
Nayatola (Jurabganj), P.S. - Kodha, District - Katihar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ansul

For the Opposite Party/s : Mr. Hirday Pd. Singh(App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

4 11-07-2016

Petitioner is languishing in custody since
16.09.2015 in a case registered for the offences punishable
under Sections 20, 22, 23, 24, 27(A), 29 of the N.D.P.S. Act.

The prosecution case is that during last
Assembly Election several persons were apprehended during
vehicle check. The petitioner was one of them. From the
possession of the petitioner 800 gms of Charas like material
along with motorcycle and seven keys were recovered.

It is submitted by learned counsel for the
petitioner that the recovery is between small and commercial
quantity. The petitioner is accused in one other case registered
under Sections 395, 216A I.P.C but has never been involved in
a case under NDPS Act. 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, whereas, in view of the provisions under Section 37 of the NDPS Act, the accused is not entitled for release on bail, if the commercial quantity of narcotic drugs or psychotropic substances are recovered or the case is registered under Sections 19, 24, 27A of the NDPS Act, unless the Court is satisfied that there is reasonable ground for believing that the accused is not guilty of the offence alleged or is not likely to commit any offence while on bail. It is further submitted that even assuming the accusation, no offences under Sections 24 and 27A of the NDPS Act is 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 harboring 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 submits that prima facie, it does not appear that the offence under Sections 24 or 27A of the NDPS Act is made out against the petitioner.

Considering the quantity of recovery between small and commercial quantity, the investigation already concluded and the fact that petitioner is not involved in any other case under NDPS Act, let the petitioner, above named, 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 Additional District & Sessions Judge, IIIrd, 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, if the petitioner gets substantially involved in similar nature of offence or defaults for two consecutive occasions during trial.

(Dinesh Kumar Singh, J)

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