

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31288 of 2016

Arising Out of PS.Case No. -65 Year- 2012 Thana -RAXAUL District-
EASTCHAMPARAN(MOTIHARI)

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Mahesh Srivastava, son of Vinod Pd. Srivastva alias Om Binod Prasad,
resident of Village- Bata Chowk, P.S. Hariya, P.O. Raxaul and District-
East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Union of India through its Inspector General, S.S.B., Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar
For the Opposite Party/s : Mr. Manoj Kumar Singh (CGC)

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**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR
SINGH**
ORAL ORDER

04/ 30-08-2016

Heard learned counsels for the petitioner and
the State.

The petitioner is languishing in custody since
04.05.2016 in a case registered for the offences punishable under
Sections 20, 22, 23 and 24 of the NDPS Act.

The prosecution case is that one Santosh
Kumar Gupta was apprehended on account of having been
identified as a carrier and from whose possession, 50 grams of
brown sugar was recovered. On interrogation said Santosh Kumar
Gupta disclosed that the petitioner Mahesh Srivastava has paid
Rs.2000/- for carrying the brown sugar.



It is submitted by learned counsel for the petitioner that the investigation has already concluded and admittedly the recovery has not been made from the petitioner. Earlier the anticipatory bail application of the petitioner was disposed of vide Cr. Misc. No. 34665 of 2014 wherein it was recorded that while considering the bail application of Santosh Kumar Gupta vide Cr. Misc. No. 37082 of 2012, the FSL report was called for which suggests that the sample of seized contraband was not found to be brown sugar, but the investigating agency without obtaining the FSL report submitted the final report, hence, a co-ordinate Bench of this Court directed the learned court below to consider the prayer for bail of the petitioner preferably in view of the FSL report, but the learned court below has mechanically rejected the prayer for bail of the petitioner. A statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent.

Mr. Manoj Kumar Singh, learned counsel for Union of India, has not controverted this fact that FSL report does not suggest the seized material as of brown sugar and moreover, there is no recovery from the petitioner.

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 Sessions Judge –cum- Special Judge, East Champaran, Motihari in connection with N.D.P.S. Case No. 80 of 2012 arising out of Raxaul P.S. Case No. 65 of 2012.

(Dinesh Kumar Singh, J)

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