

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13775 of 2016

Arising Out of PS.Case No. -354 Year- 2012 Thana -SIKARPUR District-
WESTCHAMPARAN(BETTIAH)

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Devendra Kamat @ Devendre Kamat@ Shambhu Kamat Son of Baleshwar
Kamat @ Maleshwar Kamat Resident of Village Kamlawar Patti, P.S.
Harlakhi, District Madhubani.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivjee Singh

For the Opposite Party/s : Mr. Sanjay Kr. Tiwary(App)

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

ORAL ORDER

04/ 29-09-2016

Heard learned counsels for the petitioner and

the State.

The petitioner is languishing in custody since
09.11.2012 in a case registered for the offences punishable under
Sections 20, 22, 23, 24, 27A and 29 of the Narcotic Drugs and
Psychotropic Substances Act.

The prosecution case is that the police on
receiving secret informant about assemblance and preparation of
committing dacoity in the village Gobardhana reached and
apprehended 13 miscreants on chase. From the apprehended
accused persons arms, ammunitions, jewelleryes, cash and mobile
phone were recovered. On query it was found that the recovered

jewellery and other articles were robbed earlier. From the place the accused were apprehended 5 kgs. Charas kept in a towel was also recovered.

It is submitted by learned counsel for the petitioner that the recovery of commercial quantity of Charas, cannot be treated as recovered from the personal possession of any of the accused persons and considering the same the others have been granted bail by different co-ordinate Benches of this Court vide Cr. Misc. No. 44917 of 2013, 24940 of 2014 and 32317 of 2014. Though, the petitioner is accused in other cases being Shikarpur P.S. Case No. 310 of 2012 registered under Sections 395 of the IPC, 25(1-B)a/26 of the Arms Act and 3/4 of Explosive Substances Act and Shikarpur P.S. Case No. k353 of 2012 registered under Sections 399, 403 of the IPC and sections 25(1-B)a/26/35 of the Arms Act. Statement has been made in paragraph 2 of the supplementary affidavit, which reads as follows:-

“That besides the present case, the petitioner has been involved in the following cases which are as follows:-

(1) S.T. No. 72 of 2013 arising out of Shikarpur P.S. Case No. 310/ 2012 under section 395 of the Indian Penal Code, section 25(1-B)a, 26 of the Arms Act and section 3/4 of the Explosive Substances Act. In this case he has been granted bail by the court below on 02.06.2016.

(2) S.T. No. 515 of 2013 arising out of Shikarpur P.S. Case No. 353 of 2012

under Section 399, 403 of the Indian Penal Code, section 25(1-B)a, 26 and 35 of the Arms Act. In this case he has been granted bail by the court below on 25.05.2016.”

It is further submitted that the petitioner could not file any bail application since he is extremely poor person.

Mr. J.N. Thakur, learned counsel for the State after going through the case diary submits that 13 persons were apprehended and recoveries were made from the place of apprehension of the accused but has not controverted this fact that other similarly situated co-accused persons have been granted bail. It is further submitted by learned APP that the petitioner is accused in two other cases from before.

Considering the fact that so far as question of recovery is concerned, the case of the petitioner cannot be distinguished from other accused persons, who have been granted bail by different co-ordinate Benches of this Court, and admittedly the recovery was not made from the personal possession of the petitioner as recovery was from a place from where 13 persons were apprehended, 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

IInd Additional Sessions Judge, Bettiah, West Champaran in connection with Trial No. 37 of 2013 (N.D.P.S. Case No. 96 of 2012) arising out of Shikarpur P.S. Case No. 354 of 2012.

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 some serious nature of offence.

(Dinesh Kumar Singh, J)

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