

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.4651 of 2016

Arising Out of PS.Case No. -20 Year- 2014 Thana -ECONOMIC OFFENCES, BIHAR District-
PATNA

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Ram Vivek Singh Son of Late Heera Singh, R/o Mohalla- Chandani
Chowk, P.S.- Brahmpura, District- Muzaffarpur

.... Petitioner/s

Versus

The State of Bihar through Economic Offence, Deptt., Bihar, Patna

.... Opposite Party/s

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with

Criminal Miscellaneous No.26507 of 2013

Arising Out of PS.Case No. -17 Year- 2012 Thana -ECONOMIC OFFENCES, BIHAR District-
PATNA

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Ram Vivek Singh S/O Late Hira Singh Resident Of Mohalla- N.H. 28,
Chandni Chowk, P.S.- Brahmpura, P.O.- Mit, Brahmpura, District-
Muzaffarpur

.... Petitioner/s

Versus

The State Of Bihar

.... Opposite Party/s

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Appearance :

(In Cr.Misc. No.4651 of 2016)

For the Petitioner/s : Mr. Aaruni Singh, Advocate

For the EoU : Mr. V.N.P.Sinha, Sr. Advocate

(In Cr.Misc. No.26507 of 2013)

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr. Satyanand Shukla (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

11 19-09-2016

Re. Criminal Miscellaneous No.4651/2016.

Heard Mr. Aaruni Singh, learned counsel for the
petitioner, Mr. V. N. P. Sinha, learned senior counsel for the
Economic Offences Unit and APP for the State.

The petitioner is languishing in custody since
30.03.2014 in a case registered for the offences punishable under

sections 414, 420, 467, 468,471,472/34 of the Indian Penal Code and 20(b)(1)/23/29 of The Narcotic Drugs and Psychotropic Substances Act, in connection with Special Case No.27/2014 and 35/14 arising out of Economic Offence P.S. Case No.20/2014, pending before the learned Additional Sessions Judge-VI, Patna.

Prosecution case is as per the written report of Sandeep Kumar Singh, Inspector of Police, Economic Offences Unit, dated 29.03.2014 is to the effect that on 27.03.2014 at 5.00 PM a secret information was received by the Economic Offences Unit that wanted accused Ram Vivek Singh, the petitioner of the present case, is transporting 'ganja' through Tata-407 vehicle from Orissa. Consequently, the raid was laid and at 12.15 AM one Tata-407 truck bearing registration no. WB-41-A/7089 was intercepted. The petitioner Ram Vivek Singh along with Vijay Kumar Singh, Babloo Singh and the driver Md. Nehaluddin were found sitting in the cabin of the truck. The truck was followed by a Sumo vehicle which was being driven by Suresh Kumar while other four persons namely Rajeshwar Rai, Lorik Rai, Pappu Kumar Singh and Vidyanand Jha were found sitting in it. Thereafter, the search was conducted and from the Tata-407 truck in a cabin specially designed 137 packets (containing one kilogram in each packet), 23 packets of 2 kilograms each, total weighing $137+46=183$

kilograms of 'ganza' were recovered. From the Tata Sumo vehicle bearing registration No.BR-29-B/6537, 50 packets of one kilogram each total 50 kilograms of ganza were recovered. Consequently, the samples were drawn leading to registration of Economic Offences Police Case No. 20/14 on 29.03.2014.

It is submitted by learned counsel for the petitioner that initially on suspicion the petitioner was made accused in Economic Offences Police Case No. 17/2012, registered on 05.10.2012 corresponding to Special Case No. 35/2012 wherein which Md. Mokim, the Deputy Superintendent of Police,-cum-Officer I/c of Economic Offences Unit was the informant. The petitioner was made accused on suspicion since he was found fleeing away along with five others from a truck from which 829 kilograms of ganza were recovered. The petitioner was accused in only in one case being Brahmpura P.S. Case No.61/2003 registered under sections 399/414 of the Indian Penal Code and 25(1-B)a, 26, 35 of the Arms Act prior to being made accused in Economic Offences P.S. Case No.17/2012. But, in the said case, the petitioner was acquitted by the learned Additional Sessions Judge-cum-FTC-3rd, Muzaffarpur, vide judgment dated 17th September, 2011. The petitioner was granted bail in Economic Offences P.S. Case No. 17/2012 by this Court vide order dated



08.08.2013 passed in Criminal Miscellaneous No.26507/2013 on the ground that no recovery was made from the conscious possession of the petitioner, rather he was found fleeing away along with five others after jumping from the truck from which actual seizure was made and after the release the petitioner has been made accused mechanically in three other cases i.e. (i) Economic Offences P.S. Case No.17/2014, registered under sections 20(b) (1)/23/29 of The Narcotic Drugs and Psychotropic Substances Act and 414, 420, 46, 468, 471, 472 of the Indian Penal Code in which he has been granted bail by a co-ordinate Bench of this Court vide order dated 14.12.2015 passed in Criminal Miscellaneous No. 27249/2015, (ii) Economic Offences P.S. Case No.20/2014 corresponding to Special Case No. 27/2014 and 35 of 2014 registered under sections 414, 420, 467, 468, 471, 472/34 of the Indian Penal Code and 20(b) (1)/23/29 of The Narcotic Drugs and Psychotropic Substances Act, which is the present case and (iii) Economic Offences P.S. Case No.21/2014 registered on 02.04.2014 corresponding to Special Case No.31/2014, registered under sections 20(b)(1)/23/29 of The Narcotic Drugs and Psychotropic Substances Act wherein the petitioner has till date not preferred any bail application. Though, the bail applications of co-accused Indrajeet Singh and Balraj

Singh have been rejected by co-ordinate Bench of this Court (now retired) vide order dated 04.08.2015 passed in Criminal Miscellaneous No.39783/2014 and Criminal Miscellaneous No.42498/2014.

Learned counsel for the petitioner further submits that after the petitioner was granted bail in Economic Offences Case No.17/2012 vide order dated 08.08.2013 passed in Criminal Miscellaneous No.26507/2013, the petitioner has maliciously been roped in three cases under the NDPS Act by the Economic Offences Unit either by the same informant or by one of the members of the raiding party of initial case. In Economic Offences P.S. Case Nos.17/2014 and 21/2014, the petitioner was not apprehended on the spot rather his name transpired on the confession of a common co-accused Pramod Paswan while in the present case the petitioner was apprehended while sitting in the cabin of the truck from which the seizure of commercial quantity of ganja was made.

While hearing the present bail application, this Court vide order dated 29.01.2016, called for the case diary of Special Case No.27/2014 and 35/2014 arising out of Economic Offences Case No.20/2014. Thereafter, vide order dated 29.02.2016, this Court directed to place the records of disposed of Criminal



Miscellaneous No.26507/2013, whereby the petitioner was granted bail in Economic Offence P.S. Case No.17/2012 corresponding to Special Case No.35/2012 along with the present criminal miscellaneous. Thereafter it appears that inadvertently orders dated 29.03.2016, 27.04.2016 and 11.08.2016 have been recorded in Criminal Miscellaneous No.26507/2013. This Court vide order dated 09.03.2016 adjourned the matter for 29.03.2016 on the prayer of Mr. Vishwanath Prasad Singh, learned senior counsel for Economic Offences Unit enabling him to file counter affidavit stipulating in detail of all the cases in which the petitioner is accused with respective stages of such cases.

This Court vide order dated 29.03.2016, the order recorded in Criminal Miscellaneous No.26507/2013, granted four weeks adjournment on the prayer of learned senior counsel for the petitioner to file show cause as to why the bail granted to the petitioner in Economic Offence Case No.17/2012 arising out of Special Case No.35/2012 be not cancelled since the petitioner has misused the privilege of bail by getting subsequently involved in three other cases registered under the NDPS Act. Consequently, show cause was filed on behalf of the petitioner. Thereafter the matter has been adjourned on several occasions due to the death of the senior counsel appearing on behalf of the petitioner.

Perused the show cause filed on behalf of the petitioner.

It is submitted by learned counsel for the petitioner that after the grant of bail in Economic Offence Case No.17/2012 the petitioner has maliciously been roped in three other cases prior to that he was not involved in any other case under the NDPS Act and apart from the present case in other two cases the petitioner has been roped in on the confession of the co-accused Pramod, hence, it cannot be treated to be the case of misuse of privilege of bail.

A counter affidavit has been filed on behalf of the Economic Offences Unit stipulating that though the petitioner was not apprehended on spot in two other cases but his name transpired on the basis of the statement of the apprehended accused Pramod Paswan and subsequently during investigation his involvement as a king pin in transportation of ganja has been verified and he has been charge-sheeted in all the three cases. Hence, the petitioner has grossly misused the privilege of bail.

Considering the rival submissions of the parties and keeping in view of the fact that the petitioner was arrested from the cabin of the truck from which commercial quantity of ganja, i.e. 183 kilograms were recovered and in view of the embargo

under section 37 of the NDPS Act, with regard to grant of bail in case of offences involving commercial quantity of Narcotic Drugs or Psychotropic Substances, this court is not inclined to grant bail to the petitioner.

Accordingly, the prayer for bail of the petitioner is rejected in connection with Special Case No.27/2014 and 35/2014 arising out of Economic Offence Case No.20/2014.

Re. Criminal Miscellaneous No.26507/2013.

So far as Economic Offences P.S. Case No.17/2012 corresponding to Special Case No.35 of 2012 is concerned, though, from the possession of the petitioner the recovery was not made rather 829 kilograms of ganja were recovered from the truck from where the petitioner was found fleeing away along with others and similarly situated accused persons in the said case have been granted bail by different co-ordinate Benches of this court vide Criminal Miscellaneous No.36745/2013 and Criminal Miscellaneous No.4933/2014 but keeping in view of the fact that the petitioner subsequent to grant of bail has been chargesheeted in three cases under NDPS Act, hence, has grossly misused the privilege of bail. In the circumstances, this Court has no option but to cancel the bail of the petitioner. Accordingly, the bail granted to the petitioner vide order dated 08.08.2013 passed in

Criminal Miscellaneous No.26507/2013 in connection with Economic Offences P.S. Case No.17/2012 corresponding to Special Case No.35 of 2012 is hereby cancelled.

Since the petitioner is already in judicial custody. Let the order be transmitted to the learned Court below.

Let the trial of all the cases, in which the petitioner is accused, be expedited.

Let the order be transmitted to all the concerned courts.

(Dinesh Kumar Singh, J)

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