

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.14314 of 2016

Arising Out of PS.Case No. -34 Year- 2016 Thana -VAISHALI District- VAISHALI(HAJIPUR)

1. Daya Kumar Chaudhary Son of late Jageshwar Chaudhary Resident of Village- Daulatpur, Police Station Hajipur Sadar , District Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Dinesh Maharaj

For the Opposite Party/s : Mr. Md.Fahimuddin(App)

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 17-05-2016 Heard learned counsels for the petitioner and the State.

The petitioner is languishing in custody since 2.2.2016 in a case registered for the offences punishable under Sections 17,22 and 23 of the NDPS Act.

The prosecution case is that on secret information that trafficking of ganja is going on, the informant being police officer intercepted two motorcycles and found one plastic bag containing some packets. Two persons were found traveling on the motorcycles namely Sanjeev Kumar alias Mantu and Suresh Rai. In the meantime, two persons came on a motorcycle namely co accused Sanjeet Kumar and petitioner Daya Kumar Choudhary. They admitted that they

were carrying ganja and from five packets altogether 44 kilograms ganja were recovered.

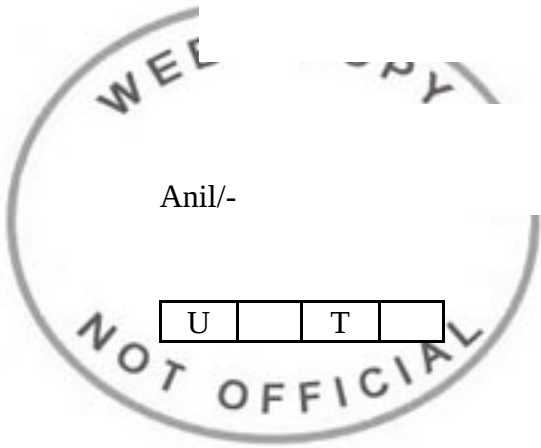
It is submitted by the learned counsel for the petitioner that neither search was made in consonance to the provision under section 50 of NDPS Act nor the samples were drawn as per the provisions of law even though the Magistrate was present at the place of seizure. Statement has been made in paragraph 3 of the petition that the petitioner has no criminal antecedent. It is also submitted that even assuming the recovery of twenty two kg. ganja from the petitioner and the co accused Sanjeet then actual recovery per head comes to 11 kilograms which is between the small and commercial quantity.

Considering the quantity of recovery, this court is not inclined to grant bail to the petitioner in connection with Vaishali (Belsar OP) P.S. Case No. 34 of 2016 pending in the court of learned Sessions judge, Vaishali at Hajipur.

The contention of learned counsel for the petitioner with regard to deficiency in making seizure and drawing of the sample can be agitated in the appropriate proceeding.

This application is, accordingly, dismissed.

However, let the trial be expedited.



(Dinesh Kumar Singh, J)