

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.21558 of 2016

Arising Out of PS.Case No. -133 Year- 2015 Thana -GOPALPUR District-
WESTCHAMPARAN(BETTIAH)

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Radhe Shyam Sharma S/o Indrashan Sharma, Resident of Village-
Jagarnathpur, P.S.+District- Parasa Nepal

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Opposite Party/s : Mr. Madhuri Lata(App)

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

ORAL ORDER

02/ 19-05-2016

Heard learned counsels for the petitioner and

the State.

The petitioner is languishing in custody since
19.09.2015 in a case registered for the offences punishable under
Sections 414 of the Indian Penal Code and Sections 20, 22, 23, 24,
27A & 29 of the NDPS Act.

The prosecution case is that the petitioner
was apprehended during vehicle check and from the dicky of the
motorcycle 2 ½ kgs. of Ganja and from a bag hanging with the
handle of the motorcycle 2 ½ kgs. of Ganja were recovered, hence,
total recovery was 5 kgs.

It is submitted by learned counsel for the
petitioner that the petitioner has never involved in any case,
statement to that effect has been made in paragraph 3 of the



petition and 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 wherein in view of the provisions under Section 37 of the NDPS Act the accused is not entitled for release on bail, unless the Court is satisfied that there are reasonable ground for believing that he is not guilty of such offence and 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 NDPS Act are 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 harbouring offenders, hence, no offence under Section 27A of the NDPS Act

is out against the petitioner.

Learned APP submits that after going through the FIR, prima facie, does not appear that the offences under Sections 24 and 27A of the NDPS Act are made out against the petitioner.

Considering the quantity of recovery between small and commercial quantity and petitioner has no criminal antecedent, 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 2nd Additional Sessions Judge, Bettiah, West Champaran in connection with NDPS Case No. 19 of 2015 arising out of Gopalpur P.S. Case No. 133 of 2015 (Trial No. 11 of 2016).

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 similar nature of offence.

(Dinesh Kumar Singh, J)

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