

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.8033 of 2016

Arising Out of PS.Case No. -430 Year- 2015 Thana -ARARIA District- ARRARIA

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1. Kalam @ Kamal @ Kalam Kamal son of Late Nadamuddin @
Nizamuddin Resident of village- Masunda (Bardaha), P.S.- Sikty,
District- Araria

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sudish Kumar

For the Opposite Party/s : Mr. T.N.Thakur (App)

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 17-08-2016

The petitioner is languishing in custody since 26.08.2015 in a case registered for the offences punishable under Sections 22, 24, 29 of the NDPS Act.

The prosecution case is that while conducting raid to apprehend the accused in serious offences, information was received by the informant being a police officer with regard to sell and purchase of narcotic drugs and psychotropic substance. The informant started checking the vehicle and suspected person when this petitioner got down from an auto rickshaw and started fleeing away who was apprehended. From the possession of the petitioner double tiger made in Thailand heroin 100% poison special No. 1 Batch No. 09748 net weight 1 pound, date of manufacturing 27.05.2013, date of expiry 26.05.2015 were recovered.

It is submitted by learned counsel for the



petitioner that FSL report received today in sealed cover which is being opened by Mr. J.N. Thakur, learned APP suggests that the seized material has been found to be Melathion being an organo phosphorous pesticide which is commonly used in agriculture for killing pests and is highly poisonous. Hence, the seized material is not heroin. Melathion is neither mentioned in the notification appended with the Narcotic Drugs and Psychotropic Substance Act nor in the schedule of the Act or schedule of the Narcotic Drugs and Psychotropic Substance rules. It is further submitted that the embargo of Section 24 of the NDPS Act will not apply against the petitioner as the accusation does not constitute any offence under Section 24 of the Act. 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.

A statement has been made in para 3 of the

petition that petitioner has no criminal antecedent.

Considering the aforesaid facts, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned District & Sessions Judge-cum-Special Judge(NDPS), Araria in connection with Araria(Bairgachhi) P.S. Case No. 430 of 2015, arising out of Special Case No. 09 of 2015.

Let the office seal the FSL report and remit it back to the Court below.

(Dinesh Kumar Singh, J)

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